THE
MADRAS LEGISLATIVE COUNCIL MANUAL

VOLUME I

CONTAINING THE GOVERNMENT OF INDIA ACT AND THE RULES FRAMED BY THE GOVERNMENT OF INDIA

WITH AN INDEX

MADRAS
PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS

PRICE, 1 rupee 10 annas. 1922

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1922

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GOVERNMENT OF INDIA ACT

(5 & 6 Geo. 5, Ch. 61 ; 6 & 7 Geo. 5, Ch. 37 ; and 9 & 10 Geo. 5, Ch. 101)

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GOVERNMENT OF INDIA ACT

(5 & 6 Geo. 5, Ch. 61; 6 & 7 Geo. 5, Ch. 37; and 9 & 10 Geo. 5, Ch. 101)

An Act to consolidate enactments relating to the government of India

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I

Home Government

The Crown

1. The territories for the time being vested in His Majesty in India are governed by and in the name of His Majesty the King Emperor of India, and all rights which, if the Government of India Act, 1858, had not been passed, might have been exercised by the East India Company in relation to any territories, may be exercised by and in the name of His Majesty as rights incidental to the government of India

Government of India by the Crown

21 & 22 Vict., c. 106

The Secretary of State

2. (*1*) Subject to the provisions of this Act, the Secretary of State has and performs all such or the like powers and duties relating to the government or revenues of India, and has all such or the like powers over all officers appointed or continued under this Act, as, if the Government of India Act, 1858, had not been passed, might or should have been exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of that Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India, in relation to that government or those revenues and the officers and servants of that Company, and also all such powers as might have been exercised by the said Commissioners alone.

The Secretary of State

21 & 22 Vict., c. 106

(2) In particular, the Secretary of State may, subject to the provisions of this Act [1][or rules made thereunder], superintend, direct and control all acts, operations and concerns which relate to the government or revenues of India, and all grants of salaries, gratuities and allowances, and all other payments and charges, out of or on the revenues of India.

[2][(3) The salary of the Secretary of State shall be paid out of moneys provided by Parliament, and the salaries of his under-secretaries and any other expenses of his department may be paid out of the revenues of India or out of moneys provided by Parliament.]

The Council of India

The Council of India

3. (1) The Council of India shall consist of such number of members, not less than [3][eight] and not more than [3][twelve], as the Secretary of State may determine:

[4][Provided that the Council as constituted at the time of the passing of the Government of India Act, 1919, shall not be affected by this provision, but no fresh appointment or re-appointment thereto shall be made in excess of the maximum prescribed by this provision.]

(2) The right of filling any vacancy in the Council shall be vested in the Secretary of State.

(3) Unless at the time of an appointment to fill a vacancy in the Council [5][one-half] of the then existing members of the Council are persons who have served or resided in [*][6] India for at least ten years, and have not last left [*][7] India more than five years before the date of their appointment, the person appointed to fill the vacancy must be so qualified.

(4) Every member of the Council shall hold office except as by this section provided, for a term of [8][five] years:

---

1 These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 This sub-section was substituted by *ibid.*

3 The words "eight" and "twelve" were substituted for the words "ten" and "fourteen" respectively by *ibid.*

4 This proviso was added by *ibid.*

5 The word "one-half" was substituted for the word "nine" by *ibid.*

6 The word "British" was omitted by *ibid.*

7 The word "British" was omitted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

8 The word "five" was substituted for "seven" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[1][Provided that the tenure of office of any person who is a member of the Council at the time of the passing of the Government of India Act, 1919, shall be the same as though that Act had not been passed.]

(*5*) The Secretary of State may, for special reasons of public advantage, re-appoint for a further term of five years any member of the Council whose term of office has expired. In any such case the reasons for the re-appointment shall be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament. Save as aforesaid, a member of the Council shall not be capable of re-appointment.

(*6*) Any member of the Council may, by writing signed by him, resign his office. The instrument of resignation shall be recorded in the minutes of the Council.

(*7*) Any member of the Council may be removed by His Majesty from his office on an address of both Houses of Parliament.

[2] [(*8*) There shall be paid to each member of the Council of India the annual salary of twelve hundred pounds:

Provided that any member of the Council who was at the time of his appointment domiciled in India shall receive, in addition to the salary hereby provided, an annual subsistence allowance of six hundred pounds.

Such salaries and allowances may be paid out of the revenues of India or out of moneys provided by Parliament.

(*9*) Notwithstanding anything in any Act or rule, where any person in the service of the Crown in India is appointed a member of the Council before the completion of the period of such service required to entitle him to a pension or annuity, his service as such member shall, for the purpose of any pension or annuity which would have been payable to him on completion of such period, be reckoned as service under the Crown in India whilst resident in India.]

4. No member of the Council of India shall be capable of sitting or voting in Parliament. Seat in Council disqualification for Parliament

5. The Council of India shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the Government of India and the correspondence with India. * * *[3] Duties of Council

---

1 This proviso was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 Sub-sections (*8*) and (*9*) of section 3 were substituted for old sub-section (*8*) by *ibid.*

3 The remaining words were omitted by *ibid.*

Powers of Council

6. (*1*) All powers required to be exercised by the Secretary of State in Council, and all powers of the Council of India, shall be exercised at meetings of the Council at which [1][such number of members are present as may be prescribed by general directions of the Secretary of State.]

(*2*) The Council may act notwithstanding any vacancy in their number.

President and vice-president of Council

7. (*1*) The Secretary of State shall be the president of the Council of India, with power to vote.

(*2*) The Secretary of State in Council may appoint any member of the Council to be vice-president thereof, and the Secretary of State may at any time remove any person so appointed.

(*3*) At every meeting of the Council the Secretary of State, or, in his absence, the vice-president, if present, or, in the absence of both of them, one of the members of the Council, chosen by the members present at the meeting, shall preside.

Meetings of Council

8. Meetings of the Council of India shall be convened and held as and when the Secretary of State directs, but one such meeting at least shall be held in every [2][month].

Procedure at meetings

9. (*1*) At any meeting of the Council of India at which the Secretary of State is present, if there is a difference of opinion on any question, except a question with respect to which a majority of votes at a meeting is by this Act declared to be necessary, the determination of the Secretary of State shall be final.

(*2*) In case of an equality of votes at any meeting of the Council, the person presiding at the meeting shall have a second or casting vote.

(*3*) All acts done at a meeting of the Council in the absence of the Secretary of State shall require the approval in writing of the Secretary of State.

(*4*) In case of difference of opinion on any question decided at a meeting of the Council, the Secretary of State may require that his opinion and the reasons for it be entered in the minutes of the proceedings, and any member of the Council, who has been present at the meeting, may require that his opinion, and any reasons for it that he has stated at the meeting, be also entered in like manner.

---

[1] These words were substituted for "not less than five members are present" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The word "month" was substituted for the word "week" by *ibid.*

10. The Secretary of State may constitute committees of the Council of India for the more convenient transaction of business, and direct what departments of business are to be under those committees respectively, and generally direct the manner in which [1][the business of the Secretary of State in Council or the Council of India shall be transacted, and any order made or act done in accordance with such direction shall, subject to the provisions of this Act, be treated as being an order of the Secretary of State in Council.] Committees of Council and business

Orders and Communications

[2][**11.** Subject to the provisions of this Act, the procedure for the sending of orders and communications to India and in general for correspondence between the Secretary of State and the Governor-General in Council or any local government shall be such as may be prescribed by order of the Secretary of State in Council.] Correspondence between Secretary of State and India

12.
13. } [2] *Omitted.*
14.

15. When any order is sent to India directing the actual commencement of hostilities by His Majesty's forces in India, the fact of the order having been sent shall, unless the order has in the meantime been revoked or suspended, be communicated to both Houses of Parliament within three months after the sending of the order, or, if Parliament is not sitting at the expiration of those three months, then within one month after the next meeting of Parliament. Communication to Parliament as to orders for commencing hostilities

16. [*Correspondence by Governor-General with Secretary of State.*] Omitted by Part III of Schedule II of 9 and 10 Geo. 5, Ch. 101.

Establishment of Secretary of State

17. (*1*) No addition may be made to the establishment of the Secretary of State in Council, nor to the salaries of the persons on that establishment, except by an Order of His Majesty in Council, to be laid before both Houses of Parliament within fourteen days after the making thereof, or, if Establishment of Secretary of State

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1 These words were substituted for "all business of the Council or Committees thereof is to be transacted" by Part II of Schedule II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 Section 11 was substituted for old sections 11 to 14 by Part I of Schedule II of *ibid*.

Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(2) The rules made by His Majesty for examinations, certificates, probation or other tests of fitness, in relation to appointments to junior situations in the civil service, shall apply to such appointments on the said establishment.

(3) The Secretary of State in Council may, subject to the foregoing provisions of this section, make all appointments to and promotions in the said establishment, and may remove any officer or servant belonging to the establishment.

Pensions and gratuities

18. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the Chancellor of the Exchequer, grant to any secretary, officer or servant appointed on the establishment of the Secretary of State in Council, such compensation, superannuation or retiring allowance, or to his legal personal representative such gratuity, as may respectively be granted to persons on the establishment of a Secretary of State, or to the personal representatives of such persons, under the laws for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service or to personal representatives of such persons.

Military Appointments

Military appointments

19.[1] * * * In the appointment of officers to His Majesty's army the same provision as heretofore, or equal provision, shall be made for the appointment of sons of persons who have served in India in the military or civil service of the Crown or of the East India Company.

Relaxation of Control of Secretary of State

Relaxation of control of Secretary of State

[2][**19A.** The Secretary of State in Council may, notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control, vested in the Secretary of State and the Secretary of State in Council by this Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919.

Before any rules are made under this section relating to subjects other than transferred subjects, the rules proposed

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1 Certain words were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 Section 19A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

to be made shall be laid in draft before both Houses of Parliament, and such rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications or additions to which both Houses agree, but upon such approval being given the Secretary of State in Council may make such rules in the form in which they have been approved, and such rules on being so made shall be of full force and effect.

Any rules relating to transferred subjects made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.]

PART II

The Revenues of India

20. (*1*) The revenues of India shall be received for and in the name of His Majesty, and shall, subject to the provisions of this Act, be applied for the purposes of the government of India alone. Application of revenues

(*2*) There shall be charged on the revenues of India alone—

(*a*) all the debts of the East India Company; and

(*b*) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, had not been passed, would have been payable by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencement of that Act; and (21 & 22 Vict., c. 106)

(*c*) all expenses, debts and liabilities lawfully contracted and incurred on account of the government of India; and

(*d*) all payments under this Act [1][except so far as is otherwise provided under this Act.]

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[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(3) The expression "the revenues of India" in this Act shall include all the territorial and other revenues of or arising in British India, and, in particular,—

(i) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed; and 21 & 22 Vict., c. 106

(ii) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any movable or immovable property in British India; and

(iii) all movable or immovable property in British India escheating or lapsing for want of an heir or successor, and all property in British India devolving as *bona vacantia* for want of a rightful owner.

(4) All property vested in, or arising or accruing from property or rights vested in, His Majesty under the Government of India Act, 1858, or this Act, or to be received or disposed of by the Secretary of State in Council under this Act, shall be applied in aid of the revenues of India. 21 & 22 Vict., c. 106

Control of Secretary of State over expenditure of revenues

21. [1][Subject to the provisions of this Act, and rules made thereunder], the expenditure of the revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council, and no grant or appropriation of any part of those revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India: 21 & 22 Vict., c. 106

[2][Provided that a grant or appropriation made in accordance with provisions or restrictions prescribed by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council shall be deemed to be made with the concurrence of a majority of such votes.]

Application of revenues to military operations beyond the frontier

22. Except for preventing or repelling actual invasion of His Majesty's Indian possessions, or under other sudden and

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[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were added by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues.

23. (*1*) Such parts of the revenues of India as are remitted to the United Kingdom, and all money arising or accruing in the United Kingdom from any property or rights vested in His Majesty for the purposes of the government of India, or from the sale or disposal thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act. Accounts of Secretary of State with Bank

(*2*) All such revenues and money shall, except as by this section is provided, be paid into the Bank of England to the credit of an account entitled "The Account of the Secretary of State in Council of India."

(*3*) The money placed to the credit of that account shall be paid out on drafts or orders, either signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, or signed by the accountant-general on the establishment of the Secretary of State in Council or by one of the two senior clerks in the department of that accountant-general and countersigned in such manner as the Secretary of State in Council directs; and any draft or order so signed and countersigned shall effectually discharge the Bank of England for all money paid thereon.

(*4*) The Secretary of State in Council may, for the payment of current demands, keep at the Bank of England such accounts as he deems expedient; and every such account shall be kept in such name and be drawn upon by such person, and in such manner, as the Secretary of State in Council directs.

(*5*) There shall be raised in the books of the Bank of England such accounts as may be necessary in respect of stock vested in the Secretary of State in Council; and every such account shall be entitled "The Stock Account of the Secretary of State in Council of India."

(*6*) Every account referred to in this section shall be a public account.

Powers of attorney for sale or purchase of stock and receipt of dividends

24. The Secretary of State in Council, by power of attorney executed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, may authorise all or any of the cashiers of the Bank of England—

(*a*) to sell and transfer all or any part of any stock standing in the books of the Bank to the account of the Secretary of State in Council; and

(*b*) to purchase and accept stock for any such account; and

(*c*) to receive dividends on any stock standing to any such account;

and, by any writing signed by two members of the Council of India and countersigned as aforesaid, may direct the application of the money to be received in respect of any such sale or dividend:

Provided that stock shall not be purchased or sold and transferred under the authority of any such general power of attorney, except on an order in writing directed to the chief cashier and chief accountant of the Bank of England, and signed and countersigned as aforesaid.

Provision as to securities

25. All securities held by or lodged with the Bank of England in trust for or on account or on behalf of the Secretary of State in Council may be disposed of, and the proceeds thereof may be applied, as may be authorised by order in writing signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, and directed to the chief cashier and chief accountant of the Bank of England.

Accounts to be annually aid before Parliament

26. (*1*) The Secretary of State in Council shall, within the first [1][twenty-eight days] during which Parliament is sitting next after the first day of May in every year, lay before both Houses of Parliament—

(*a*) an account, for the financial year preceding that last completed, of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, in each of the several provinces; and of all the annual receipts and disbursements at home and abroad for the purposes of the government of India,

[1] These words were substituted for the words "fourteen days" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

distinguishing the same under the respective heads thereof;

(*b*) the latest estimate of the same for the financial year last completed;

(*c*) accounts of all stocks, loans, debts and liabilities chargeable on the revenues of India at home and abroad, at the commencement and close of the financial year preceding that last completed, the loans, debts and liabilities raised or incurred within that year, the amounts paid off or discharged during that year, the rates of interest borne by those loans, debts and liabilities, respectively, and the annual amount of that interest;

[1](*d*) * * * *

(*e*) a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof.

(*2*) If any new or increased salary or pension of fifty pounds a year or upwards has been granted or created within any year in respect of the said establishment, the particulars thereof shall be specially stated and explained at the foot of the account for that year.

(*3*) The account shall be accompanied by a statement, prepared from detailed reports from each province, in such form as best exhibits the moral and material progress and condition of India.

Audit of Indian accounts in United Kingdom

27. (*1*) His Majesty may, by warrant under His Royal Sign Manual, countersigned by the Chancellor of the Exchequer, appoint a fit person to be auditor of the accounts of the Secretary of State in Council, and authorise that auditor to appoint and remove such assistants as may be specified in the warrant.

(*2*) The auditor shall examine and audit the accounts of the receipt, expenditure and disposal in the United Kingdom of all money, stores and property applicable for the purposes of this Act.

(*3*) The Secretary of State in Council shall, by the officers and servants of his establishment, produce and lay before the auditor all such accounts, accompanied by proper vouchers for their support, and submit to his inspection all books, papers and writings having relation thereto.

[1] Paragraph (*d*) was repealed by Sch. II of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

(4) The auditor may examine all such officers and servants of that establishment, being in the United Kingdom, as he thinks fit, in relation to such accounts and the receipt, expenditure or disposal of such money, stores and property, and may for that purpose, by writing signed by him, summon before him any such officer or servant.

(5) The auditor shall report to the Secretary of State in Council his approval or disapproval of the accounts aforesaid, with such remarks and observations in relation thereto, as he thinks fit, specially noting cases (if any) in which it appears to him that any money arising out of the revenues of India has been appropriated to purposes other than those to which they are applicable.

(6) The auditor shall specify in detail in his reports all sums of money, stores and property which ought to be accounted for, and are not brought into account, or have not been appropriated in conformity with the provisions of the law, or which have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies or irregularities which may appear in the accounts, or in the authorities, vouchers or documents having relation thereto.

(7) The auditor shall lay all his reports before both Houses of Parliament, with the accounts of the year to which the reports relate.

(8) The auditor shall hold office during good behaviour.

(9) There shall be paid to the auditor and his assistants, out of the revenues of India, [1][or out of moneys provided by Parliament], such salaries as His Majesty, by warrant signed and countersigned as aforesaid, may direct.

(10) The auditor and his assistants (notwithstanding that some of them do not hold certificates from the Civil Service Commissioners) shall, for the purposes of superannuation [2][or retiring] allowance [2][and their legal personal representatives shall for the purposes of gratuity] be in the same position as if [3][the auditor and his assistants] were on the establishment of the Secretary of State in Council.

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1 These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 These words were inserted by Sch. I of the Government of India (Amendment) Act 1916 (6 & 7 Geo. 5, Ch. 37).

3 These words were substituted for the word " they " by *ibid.*

PART III

PROPERTY, CONTRACTS AND LIABILITIES

Power of Secretary of State to sell, mortgage and buy property

28. (*1*) The Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, sell and dispose of any real or personal estate for the time being vested in His Majesty for the purpose of the government of India, and raise money on any such real [1] [or personal] estate by way of mortgage, [1] [or otherwise] and make the proper assurances for any of those purposes, and purchase and acquire any property.

(*2*) Any assurance relating to real estate, made by the authority of the Secretary of State in Council, may be made under the hands and seals of [2] [two] members of the Council of India.

(*3*) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

Contracts of Secretary of State

29. (*1*) [3] [Subject to the provisions of this Act regarding the appointment of a High Commissioner for India,] the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make any contract for the purposes of this Act.

(*2*) Any contract so made may be expressed to be made by the Secretary of State in Council.

(*3*) Any contract so made which, if it were made between private persons, would be by law required to be under seal, may be made, varied or discharged under the hands and seals of two members of the Council of India.

(*4*) Any contract so made which, if it were made between private persons, would be by law required to be signed by the party to be charged therewith, may be made, varied or discharged under the hands of two members of the Council of India.

(*5*) Provided that any contract for or relating to the manufacture, sale, purchase or supply of goods, or for or relating to affreightment or the carriage of goods, or to insurance, may, subject to such rules and restrictions as the

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[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
[2] This word was substituted for the word "three" by *ibid.*
[3] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Secretary of State in Council prescribes, be made and signed on behalf of the Secretary of State in Council by any person upon the permanent establishment of the Secretary of State in Council who is duly empowered by the Secretary of State in Council in this behalf. Contracts so made and signed shall be as valid and effectual as if made as prescribed by the foregoing provisions of this section. Particulars of all contracts so made and signed shall be laid before the Secretary of State in Council in such manner and form and within such times as the Secretary of State in Council prescribes.

(*6*) The benefit and liability of every contract made in pursuance of this section shall pass to the Secretary of State in Council for the time being.

High Commissioner for India

[1][**29A.** His Majesty may by Order in Council make provision for the appointment of a High Commissioner for India in the United Kingdom, and for the pay, pension, powers, duties, and conditions of employment of the High Commissioner and of his assistants; and the Order may further provide for delegating to the High Commissioner any of the powers previously exercised by the Secretary of State or the Secretary of State in Council, whether under this Act or otherwise, in relation to making contracts, and may prescribe the conditions under which he shall act on behalf of the Governor-General in Council or any local government.]

Power to execute assurances, etc., in India

30. (*1*) The Governor-General in Council and any local Government may, on behalf and in the name of the Secretary of State in Council, and subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, prescribes, sell and dispose of any real or personal estate whatsoever in British India, within the limits of their respective governments, for the time being vested in His Majesty for the purposes of the government of India, or raise money on any such real [2][or personal] estate by way of mortgage, [2][or otherwise,] and make proper assurances for any of those purposes, and purchase or acquire any property in British India within the said respective limits, and make any contract for the purposes of this Act.

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[1] Section 29A was inserted by Part I of Sch. II of the Government of India Act 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[1][(*1a*) A local government may on behalf and in the name of the Secretary of State in Council raise money on the security of revenues allocated to it under this Act, and make proper assurances for that purpose, and rules made under this Act may provide for the conditions under which this power shall be exercisable.]

(*2*) Every assurance and contract made for the purposes of [2][sub-section 1 of this section] shall be executed by such person and in such manner as the Governor-General in Council by resolution directs or authorises, and if so executed may be enforced by or against the Secretary of State in Council for the time being.

(*3*) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

Power o dispose of escheated property, etc.

31. The Governor-General in Council, and any other person authorised by any Act passed in that behalf by the [3][Indian legislature] may make any grant or disposition of any property in British India accruing to His Majesty by forfeiture, escheat or lapse, or by devolution as *bona vacantia*, to or in favour of any relative or connection of the person from whom the property has accrued, or to or in favour of any other person.

Rights and liabilities of Secretary of State in Council

32. (*1*) The Secretary of State in Council may sue and be sued by the name of the Secretary of State in Council as a body corporate.

(*2*) Every person shall have the same remedies against the Secretary of State in Council as he might have had against the East India Company if the Government of India Act, 1858, and this Act had not been passed.

21 & 22 Vict., c. 106.

(*3*) The property for the time being vested in His Majesty for the purposes of the government of India shall be liable to the same judgments and executions as it would have been liable to in respect of liabilities lawfully incurred by the East India Company if the Government of India Act, 1858, and this Act had not been passed.

21 & 22 Vict., c. 106.

(*4*) Neither the Secretary of State nor any member of the Council of India shall be personally liable in respect of any assurance or contract made by or on behalf of the

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[1] Sub-section (1*a*) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words and figure were substituted for the words "this section" by *ibid.*

[3] These words were substituted for the words "Governor-General in Legislative Council" by *ibid.*

Secretary of State in Council, or any other liability incurred by the Secretary of State or the Secretary of State in Council in his or their official capacity, nor in respect of any contract, covenant or engagement of the East India Company; nor shall any person executing any assurance or contract on behalf of the Secretary of State in Council be personally liable in respect thereof; but all such liabilities, and all costs and damages in respect thereof, shall be borne by the revenues of India.

PART IV

THE GOVERNOR-GENERAL IN COUNCIL

General Powers and Duties of Governor-General in Council

Powers of control of Governor-General in Council

33. [1][Subject to the provisions of this Act and rules made thereunder,] the superintendence, direction and control of the Civil and Military Government of India is vested in the Governor-General in Council, who is required to pay due obedience to all such orders as he may receive from the Secretary of State.

The Governor-General

The Governor-General

34. The Governor-General of India is appointed by His Majesty by warrant under the Royal Sign Manual.

The Governor-General's Executive Council

35. [*Constitution of Governor-General's Executive Council.*] Omitted by Part II of Sch. II, 9 and 10 Geo. 5, Ch. 101.

Members of Council

36. (*1*) The [2] [*] members of the Governor-General's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual.

(*2*) The number of the [2] [*] members of the council shall be [3] [such as His Majesty thinks fit to appoint.]

(*3*) Three at least of them must be persons who [4][* * *] have been for at least ten years in the service

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[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 and 10 Geo. 5, Ch. 101).

[2] The word "ordinary" was omitted by *ibid.*

[3] These words were substituted for the words "five, or if His Majesty thinks fit to appoint a sixth member, six" by *ibid.*

[4] The words "at the time of their appointment" were omitted by *ibid.*

of the Crown in India, and one must be a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland, [1][or a pleader of a High Court] of not less than [2][ten] years' standing.

(*4*) If any [3][member of the council (other than the Commander-in-Chief for the time being of His Majesty's forces in India)] is at the time of his appointment in the military service of the Crown, he shall not, during his continuance in office as such member, hold any military command or be employed in actual military duties.

[4][(*5*) Provision may be made by rules under this Act as to the qualifications to be required in respect of the members of the Governor-General's executive council in any case where such provision is not made by the foregoing provisions of this section.]

[5][**37.** If the Commander-in-Chief for the time being of His Majesty's forces in India is a member of the Governor-General's executive council he shall, subject to the provisions of this Act, have rank and precedence in the Council next after the Governor-General.] Rank and precedence of Commander-in-Chief

38. The Governor-General shall appoint a member of his executive council to be vice-president thereof. Vice-president of Council

39. (*1*) The Governor-General's executive council shall assemble at such places in India as the Governor-General in Council appoints. Meetings

(*2*) At any meeting of the council the Governor-General or other person presiding and [6][one member of the council (other than the Commander-in-Chief)] may exercise all the functions of the Governor-General in Council.

40. (*1*) All orders and other proceedings of the Governor-General in Council shall be expressed to be made by the Governor-General in Council, and shall be signed by a secretary to the Government of India, or otherwise, as the Governor-General in Council may direct [7][and when so signed shall not be called into question in any legal proceeding on Business of Governor-General in Council

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[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] This word was substituted for the word "five" by *ibid.*

[3] These words were substituted for the words "person appointed an ordinary member of the council" by *ibid.*

[4] Sub-section (5) was inserted by *ibid.*

[5] Section 37 was substituted by *ibid.*

[6] These words were substituted for the words "one ordinary member of the council" by *ibid.*

[7] These words were inserted by *ibid.*

the ground that they were not duly made by the Governor-General in Council].

(2) The Governor-General may make rules and orders for the more convenient transaction of business in his executive council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the Governor-General in Council.

Procedure in case of difference of opinion

41. (1) If any difference of opinion arises on any question brought before a meeting of the Governor-General's executive council, the Governor-General in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided, the Governor-General or other person presiding shall have a second or casting vote.

(2) Provided that whenever any measure is proposed before the Governor-General in Council whereby the safety, tranquillity or interests of British India, or of any part thereof, are or may be, in the judgment of the Governor-General, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the Governor-General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the dissentient majority may require that the adoption, suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the council have recorded on the subject.

(4) Nothing in this section shall empower the Governor-General to do anything which he could not lawfully have done with the concurrence of his council.

Provision for absence of Governor-General from meetings of Council

42. If the Governor-General is obliged to absent himself from any meeting of the council, by indisposition or any other cause, [1] [* * *] the vice-president, or, if he is absent, the senior [2] [member (other than the Commander-in-Chief)] present at the meeting, shall preside thereat, with the like powers as the Governor-General would have had if present:

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[1] The words "and signifies his intended absence to the council" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "ordinary members" by Part II of Sch. II of *ibid*.

Provided that if the Governor-General is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the Governor-General, when present, dissents from the majority at a meeting of the council.

Powers of Governor-General in absence from council

43. (*1*) Whenever the Governor-General in Council declares that it is expedient that the Governor-General should visit any part of India unaccompanied by his executive council, the Governor-General in Council may, by order, authorize the Governor-General alone to exercise, in his discretion, all or any of the powers which might be exercised by the Governor-General in Council at meetings of the council.

(*2*) The Governor-General during absence from his executive council may, if he thinks it necessary, issue, on his own authority and responsibility, any order, which might have been issued by the Governor-General in Council, to any local Government, or to any officers or servants of the Crown acting under the authority of any local Government without previously communicating the order to the local Government; and any such order shall have the same force as if made by the Governor-General in Council; but a copy of the order shall be sent forthwith to the Secretary of State and to the local Government, with the reasons for making the order.

(*3*) The Secretary of State in Council may, by order, suspend until further order all or any of the powers of the Governor-General under the last foregoing sub-section; and those powers shall accordingly be suspended as from the time of the receipt by the Governor-General of the order of the Secretary of State in Council.

Appointment of council secretaries

[1][**43A.** (*1*) The Governor-General may at his discretion appoint from among the members of the Legislative Assembly, council secretaries who shall hold office during his pleasure and discharge such duties in assisting the members of his executive council as he may assign to them.

(*2*) There shall be paid to council secretaries so appointed such salary as may be provided by the Indian legislature.

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[1] Section 43A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Council, and making such contributions a first charge on allocated revenues or moneys;

(*iii*) provide for constituting a finance department in any province, and regulating the functions of that department;

(*iv*) provide for regulating the exercise of the authority vested in the local government of a province over members of the public services therein;

(*v*) provide for the settlement of doubts arising as to whether any matter does or does not relate to a provincial subject or a transferred subject, and for the treatment of matters which affect both a transferred subject and a subject which is not transferred; and

(*vi*) make such consequential and supplemental provisions as appear necessary or expedient:

Provided that without prejudice to any general power of revoking or altering rules under this Act, the rules shall not authorize the revocation or suspension of the transfer of any subject except with the sanction of the Secretary of State in Council.

(*3*) The powers of superintendence, direction, and control over local governments vested in the Governor-General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified.

(*4*) The expressions "central subjects" and "provincial subjects" as used in this Act mean subjects so classified under the rules.

Provincial subjects, other than transferred subjects, are in this Act referred to as "reserved subjects."]

Governorships

Local government in governors' provinces

46. [1][(*1*) The presidencies of Fort William in Bengal, Fort St. George, and Bombay, and the provinces known as the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces, and Assam, shall each be governed, in relation to reserved subjects, by a governor in council, and in relation to transferred subjects (save as otherwise provided

[1] Sub-section (1) of section 46 was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

by this Act) by the governor acting with ministers appointed under this Act.

The said presidencies and provinces are in this Act referred to as "governors' provinces" and the two first named presidencies are in this Act referred to as the presidencies of Bengal and Madras.]

NOTE.—See Government of India Notification, Reforms Office, No.-1 G., dated 3rd January 1921.

[1] [(2) The governors of the said presidencies are appointed by His Majesty by warrant under the Royal Sign Manual, and the governors of the said provinces shall be so appointed after consultation with the Governor-General.]

(3) The Secretary of State may, if he thinks fit, by order revoke or suspend, for such period as he may direct, the appointment of a council for any or all of [2] [the governors' provinces]; and whilst any such order is in force the governor of the [3] [province] to which the order refers shall have all the powers of the governor thereof in Council.

47. (1) The members of a governor's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual, and shall be of such number, not exceeding four, as the Secretary of State in Council directs. *Members of governors' executive councils*

(2) [4] [One at least of them must be a person who at the time of his appointment has been] for at least twelve years in the service of the Crown in India.

[5] [(3) Provision may be made by rules under this Act as to the qualifications to be required in respect of members of the executive council of the governor of a province in any case where such provision is not made by the foregoing provisions of this section.]

48. Every governor of a [6] [province] shall appoint a member of his executive council to be vice-president thereof. *Vice-president of council*

[7] [**49.** (1) All orders and other proceedings of the government of a governor's province shall be expressed to be made by the government of the province, and shall be authenticated as the governor may by rule direct, so, however, that provision shall be made by rule for distinguishing orders and other *Business of governor in council and governor with ministers*

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1 This sub-section was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 These words were substituted for the words "those presidencies" by Part II of *ibid.*

3 This word was substituted for the word "presidency" by *ibid.*

4 These words were substituted for the words "Two at least of them must be persons who at the time of their appointment have been" by *ibid.*

5 This sub-section was substituted by *ibid.*

6 This word was substituted for the word "Presidency" by *ibid.*

7 Section 49 was substituted by Part I of *ibid.*

proceedings relating to transferred subjects from other orders and proceedings.

Orders and proceedings authenticated as aforesaid shall not be called into question in any legal proceeding on the ground that they were not duly made by the government of the province.

(2) The governor may make rules and orders for the more convenient transaction of business in his executive council and with his ministers, and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of the government of the province.

The governor may also make rules and orders for regulating the relations between his executive council and his ministers for the purpose of the transaction of the business of the local government:

Provided that any rules or orders made for the purposes specified in this section which are repugnant to the provisions of any other rules made under this Act shall, to the extent of that repugnancy, but not otherwise, be void.]

Procedure in case of difference of opinion in executive council

50. (1) If any difference of opinion arises on any question brought before a meeting of a governor's executive council, the Governor in Council shall be bound by the opinion and decision of the majority of those present, and if they are equally divided the governor or other person presiding shall have a second or casting vote.

(2) Provided that, whenever any measure is proposed before a Governor in Council whereby the safety, tranquillity or interests of his [1][province], or of any part thereof, are or may be, in the judgment of the governor, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that ito ught to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the governor may, on his own authority and responsibility, by order in writing, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case the governor and the members of the council present at the meeting shall mutually exchange written communications (to be recorded at large in their secret proceedings) stating the grounds of their respective opinions, and the order of the governor shall be signed by the governor and by those members.

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[1] This word was substituted for the word "presidency" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(*4*) Nothing in this section shall empower a governor to do anything which he could not lawfully have done with the concurrence of his council.

Provision for absence of governor from meetings of council

51. If a governor is obliged to absent himself from any meeting of his executive council, by indisposition or any other cause, [1][* * *] the vice-president, or, if he is absent, the senior [2][*] member present at the meeting, shall preside thereat, with the like powers as the governor would have had if present :

Provided that if the governor is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature ; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the governor, when present, dissents from the majority at a meeting of the council.

Appointment of ministers and council secretaries

[3][**52.** (*1*) The governor of a governor's province may, by notification, appoint ministers, not being members of his executive council or other officials, to administer transferred subjects, and any ministers so appointed shall hold office during his pleasure.

There may be paid to any minister so appointed in any province the same salary as is payable to a member of the executive council in that province, unless a smaller salary is provided by vote of the legislative council of the province.

(*2*) No minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature.

(*3*) In relation to transferred subjects, the governor shall be guided by the advice of his ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice :

Provided that rules may be made under this Act for the temporary administration of a transferred subject where, in cases of emergency, owing to a vacancy, there is no minister in charge of the subject, by such authority and in such manner as may be prescribed by the rules.

(*4*) The governor of a governor's province may at his discretion appoint from among the non-official members of

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1 The words "and signifies his intended absence to the council" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 The word "civil" was omitted by *ibid.*

3 Section 52 was substituted by Part II of *ibid.*

the local legislature, council secretaries, who shall hold office during his pleasure, and discharge such duties in assisting members of the executive council and ministers as he may assign to them.

There shall be paid to council secretaries so appointed such salary as may be provided by vote of the legislative council.

A council secretary shall cease to hold office if he ceases for more than six months to be a member of the legislative council.]

Constitution of new provinces, etc., and provision as to backward tracts.

[1][**52A.** (*1*) The Governor-General in Council may, after obtaining an expression of opinion from the local Government and the local legislature affected, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new governor's province, or place part of a governor's province under the administration of a deputy-governor to be appointed by the Governor-General, and may in such case apply, with such modifications as appear necessary or desirable, all or any of the provisions of this Act relating to governors' provinces, or provinces under a lieutenant-governor or chief commissioner, of any such new province or part of a province.

(*2*) The Governor-General in Council may declare any territory in British India to be a "backward tract," and may, by notification, with such sanction as aforesaid, direct that this Act shall apply to that territory subject to such exceptions and modifications as may be prescribed in the notification.

Where the Governor-General in Council has, by notification, directed as aforesaid, he may, by the same or subsequent notification, direct that any Act of the Indian legislature shall not apply to the territory in question or any part thereof, or shall apply to the territory or any part thereof subject to such exceptions or modifications as the Governor-General thinks fit, or may authorise the governor in council to give similar directions as respects any Act of the local legislature.]

Note.—See Government of India Notification, Reforms Office, No. 1 G., dated 3rd January 1921.

Saving

[1][**52B.** (*1*) The validity of any order made or action taken after the commencement of the Government of India Act, 1919, by the Governor-General in Council or by a local government which would have been within the powers of the

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[1] Sections 52A and 52B were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Governor-General in Council or of such local government if that Act had not been passed, shall not be open to question in any legal proceedings on the ground that by reason of any provision of that Act or this Act, or of any rule made by virtue of any such provision, such order or action has ceased to be within the powers of the Governor-General in Council or of the government concerned.

(2) The validity of any order made or action taken by a governor in council, or by a governor acting with his ministers, shall not be open to question in any legal proceedings on the ground that such order or action relates or does not relate to a transferred subject, or relates to a transferred subject of which the minister is not in charge.]

Lieutenant-Governorships and other Provinces

Lieutenant-governorships

53. (1) [1][The province of] Burma, is, subject to the provisions of this Act, governed by a lieutenant-governor [2][* * * *].

(2) The Governor-General in Council may, by notification, with sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new province under a lieutenant-governor.

Appointment, etc., of lieutenant-governors

54. (1) A lieutenant-governor is appointed by the Governor-General with the approval of His Majesty.

(2) A lieutenant-governor must have been, at the time of his appointment, at least ten years in the service of the Crown in India.

[3][(3) * * * * * *].

Power to create executive councils for lieutenant-governors

55. (1) The Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, create a council in any province under a lieutenant-governor, for the purpose of assisting the lieutenant-governor in the executive government of the province, and by such notification—

(a) make provision for determining what shall be the number (not exceeding four) and qualifications of the members of the council; and

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[1] These words were substituted for the words "Each of the following provinces namely, those known as Bihar and Orissa, the United Provinces of Agra and Oudh, the Punjab and" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The words "with or without an executive council" were omitted by *ibid.*

[3] Sub-section (3) was omitted by Part III of *ibid.*

(*b*) make provision for the appointment of temporary or acting members of the council during the absence of any member from illness or otherwise, [1][and for supplying a vacancy until it is permanently filled,] and for the procedure to be adopted in case of a difference of opinion between a lieutenant-governor and his council, and in the case of equality of votes, and in the case of a lieutenant-governor being obliged to absent himself from his council by indisposition or any other cause:

Provided that, before any such notification is published, a draft thereof shall be laid before each House of Parliament for not less than sixty days during the session of Parliament, and if, before the expiration of that time, an address is presented to His Majesty by either House of Parliament against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft.

(2) Every notification under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(3) Every member of a lieutenant-governor's executive council shall be appointed by the Governor-General, with the approval of His Majesty.

Vice-president of lieutenant-governor's council

56. A lieutenant-governor who has an executive council shall appoint a member of the council to be vice-president thereof, and that vice-president shall preside at meetings of the council in the absence of the lieutenant-governor.

Business of lieutenant-governor in council

57. A lieutenant-governor who has an executive council may, with the consent of the Governor-General in Council, make rules and orders for more convenient transaction of business in the council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order of the act of the lieutenant-governor in council. [2][An order made as aforesaid shall not be called into question in any legal proceedings on the ground that it was not duly made by the lieutenant-governor in council.]

Chief commissioners

58. Each of the following provinces, namely, those known as [3][* * *] the North-West Frontier

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[1] These words were inserted by Part III of Sch. II of Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by Part II of *ibid.*

[3] The words "Assam, the Central Provinces" were omitted by *ibid.*

Province, British Baluchistan, Delhi, Ajmer-Merwara, Coorg, and the Andaman and Nicobar Islands, is, subject to the provisions of this Act, administered by a chief commissioner.

59. The Governor-General in Council may, with the approval of the Secretary of State, and by notification, take any part of British India under the immediate authority and management of the Governor-General in Council, and thereupon give all necessary orders and directions respecting the administration of that part, by placing it under a chief commissioner or by otherwise providing for its administration. Power to place territory under authority of Governor-General in Council

Boundaries

60. The Governor-General in Council may, by notification, declare, appoint or alter the boundaries of any of the provinces into which British India is for the time being divided, and distribute the territories of British India among the several provinces thereof in such manner as may seem expedient, subject to these qualifications, namely:— Power to declare and alter boundaries of provinces

(*1*) an entire district may not be transferred from one province to another without the previous sanction of the Crown, signified by the Secretary of State in Council; and

(*2*) any notification under this section may be disallowed by the Secretary of State in Council.

61. An alteration in pursuance of the foregoing provisions of the mode of administration of any part of British India, or of the boundaries of any part of British India, shall not affect the law for the time being in force in that part. Saving as to laws

62. The Governor of Bengal in Council, the Governor of Madras in Council, and the Governor of Bombay in Council may, with the approval of the Secretary of State in Council, and by notification, extend the limits of the towns of Calcutta, Madras and Bombay, respectively; and any act of Parliament, letters patent, charter, law or usage conferring jurisdiction, power or authority within the limits of those towns respectively shall have effect within the limits as so extended. Power to extend boundaries of presidency-towns

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PART VI

INDIAN LEGISLATION

The Indian Legislature

Indian legislature

[1][63. Subject to the provisions of this Act, the Indian legislature shall consist of the Governor-General and two chambers, namely, the Council of State and the Legislative Assembly.

Except as otherwise provided by or under this Act, a Bill shall not be deemed to have been passed by the Indian legislature unless it has been agreed to by both chambers, either without amendment or with such amendments only as may be agreed to by both chambers.]

Council of State

[1][63A. (*1*) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act, of whom not more than twenty shall be official members.

(*2*) The Governor-General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct.

(*3*) The Governor-General shall have the right of addressing the Council of State, and may for that purpose require the attendance of its members.]

Legislative Assembly

[1][63B. (*1*) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act.

(*2*) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred:

Provided that rules made under this Act may provide for increasing the number of members of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members of the Legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members.

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[1] Sections 63, 63A, 63B, 63C, 63D, 63E and 64 were substituted for sections 63 and 64 by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, C. 101).

(3) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.]

President of Legislative Assembly

[1][**63C.** (1) There shall be a president of the Legislative Assembly, who shall, until the expiration of four years from the first meeting thereof, be a person appointed by the Governor-General, and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General:

Provided that, if at the expiration of such period of four years the Assembly is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the ensuing session.

(2) There shall be a deputy-president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(3) The appointed president shall hold office until the date of the election of a president under this section, but he may resign his office by writing under his hand addressed to the Governor-General, or may be removed from office by order of the Governor-General, and any vacancy occurring before the expiration of his term of office shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office if they cease to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General, and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(5) A president and deputy-president shall receive such salaries as may be determined, in the case of an appointed president by the Governor-General, and the case of an elected president and a deputy-president by Act of the Indian legislature.]

Duration and sessions of Legislative Assembly and Council of State

[1][**63D.** (1) Every Council of State shall continue for five years, and every Legislative Assembly for three years from its first meeting:

Provided that—

(a) either chamber of the legislature may be sooner dissolved by the Governor-General; and

[1] See the footnote on page 38 *supra*.

(b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit; and

(c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months, or with the sanction of the Secretary of State not more than nine months, after the date of dissolution for the next session of that chamber.

(2) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(4) All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(5) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.]

Membership of both chambers

[1][63E. (1) An official shall not be qualified for election as a member of either chamber of the Indian legislature, and if any non-official member of either chamber accepts office in the service of the Crown in India, his seat in that chamber shall become vacant.

(2) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber, his seat in such first-mentioned chamber shall thereupon become vacant.

(3) If any person is elected a member of both chambers of the Indian legislature he shall, before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall become vacant.

(4) Every member of the Governor-General's Executive Council shall be nominated as a member of one chamber of the Indian legislature, and shall have the right of attending in and addressing the other chamber, but shall not be a member of both chambers.]

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[1] See the footnote on page 38 *supra*.

[1][64. (*1*) Subject to the provisions of this Act, provision may be made by rules under this Act as to— Supplementary provisions as to composition of Legislative Assembly and Council of State

(*a*) the term of office of nominated members of the Council of State and the Legislative Assembly, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise; and

(*b*) the conditions under which and the manner in which persons may be nominated as members of the Council of State or the Legislative Assembly; and

(*c*) the qualification of electors, the constitution of constituencies, and the method of election for the Council of State and the Legislative Assembly (including the number of members to be elected by communal and other electorates) and any matters incidental or ancillary thereto; and

(*d*) the qualifications for being or for being nominated or elected as members of the Council of State or the Legislative Assembly; and

(*e*) the final decision of doubts or disputes as to the validity of an election; and

(*f*) the manner in which the rules are to be carried into effect.

(*2*) Subject to any such rules, any person who is a ruler or subject of any state in India may be nominated as a member of the Council of State or the Legislative Assembly.]

65. (*1*) The [1][Indian legislature] has power to make laws— Powers of Indian legislature

(*a*) for all persons, for all courts, and for all places and things, within British India; and

(*b*) for all subjects of His Majesty and servants of the Crown within other parts of India; and

(*c*) for all native Indian subjects of His Majesty, without and beyond as well as within British India; and

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[1] See the footnote on page 38 *supra*.

[2] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(*d*) for the government officers, soldiers [1][airmen] and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act [1][or the Air Force Act]; and

(*e*) for all persons employed or serving in or belonging to the Royal Indian Marine Service; and

(*f*) for repealing or altering any laws which for the time being are in force in any part of British India or apply to persons for whom the [2][Indian legislature] has power to make laws.

(*2*) Provided that the [2][Indian legislature] has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting—

(*i*) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India (including the Army Act, [1][the Air Force Act] and any Act amending the same); or

(*ii*) any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the government of India;

and has not power to make any law affecting the authority of Parliament, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or affecting the sovereignty or dominion of the Crown over any part of British India.

(*3*) The [2][Indian legislature] has not power, without the previous approval of the Secretary of State in Council, to make any law empowering any court, other than a high court, to sentence to the punishment of death any of His Majesty's subjects born in Europe, or the children of such subjects, or abolishing any high court.

Laws for the Royal Indian Marine Service

66. (*1*) A law made under this Act for the Royal Indian Marine Service shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters,

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[1] These words were inserted by Part III of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of *ibid.*

that is to say, the high seas between the Cape of Good Hope on the West and the Straits of Magellan on the East, and any territorial waters between those limits.

(2) The punishments imposed by any such law for offences shall be similar in character to, and not in excess of, the punishments which may, at the time of making the law, be imposed for similar offences under the Acts relating to His Majesty's Navy, except that, in the case of persons other than Europeans or Americans, imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude.

Business and proceedings in Indian legislature

67. [1][(1) Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature, and as to the persons to preside at the meetings of Legislative Assembly in the absence of the president and the deputy-president; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.]

(2) It shall not be lawful, without the previous sanction of the Governor-General, to introduce at any meeting of [2][either chamber of the Indian legislature] any measure affecting—

(a) the public debt or public revenues of India or imposing any charge on the revenues of India; or

(b) the religion or religious rites and usages of any class of British subjects in India; or

(c) the discipline or maintenance of any part of His Majesty's military, [3][naval, or air] forces; or

(d) the relations of the Government with foreign princes or states:

[4][or any measure—

(i) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under this Act to be subject to legislation by the Indian legislature; or

(ii) repealing or amending any Act of a local legislature; or

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[1] This sub-section was substituted by the Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "the Council" by Part II of *ibid.*

[3] These words were substituted for the words "or naval" by Part III of *ibid.*

[4] These clauses were inserted by Part II of Sch. II of *ibid.*

(*iii*) repealing or amending any Act or ordinance made by the Governor-General.]

[1] [(*2a*) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquillity of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the chamber in relation to the Bill, clause, or amendment, and effect shall be given to such direction.]

[2] [(*3*) If any Bill which has been passed by one chamber is not, within six months after the passage of the Bill by that chamber, passed by the other chamber either without amendments or with such amendments as may be agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers: Provided that standing orders made under this section may provide for meetings of members of both chambers appointed for the purpose, in order to discuss any difference of opinion which has arisen between the two chambers.]

[2] [(*4*) Without prejudice to the powers of the Governor-General under section sixty-eight of this Act, the Governor-General may, where a Bill has been passed by both chambers of the Indian legislature, return the Bill for reconsideration by either chamber.]

[2] [(*5*) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.]

[2] [(*6*) Standing orders may be made providing for the conduct of business and the procedure to be followed in either chamber of the Indian legislature in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the Governor-General in Council, but may with the consent of the Governor-General be altered by the chamber to which they relate.

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[1] Sub-section (2*a*) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Sub-sections (3), (4), (5), (6) and (7) were substituted for sub-section (3) by Part I of *ibid.*

Any standing order made as aforesaid which is repugnant to the provisions of any rules made under this Act shall, to the extent of that repugnancy but not otherwise, be void.]

[1] [(*7*) Subject to the rules and standing orders affecting the chamber there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber.]

[2] [**67A.** (*1*) The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian legislature in each year. *Indian budget*

(*2*) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor-General.

(*3*) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs :—

(*i*) interest and sinking fund charges on loans; and

(*ii*) expenditure of which the amount is prescribed by or under any law; and

(*iii*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(*iv*) salaries of chief commissioners and judicial commissioners; and

(*v*) expenditure classified by the order of the Governor-General in Council as—

(*a*) ecclesiastical;

(*b*) political;

(*c*) defence.

(*4*) If any question arises as to whether any proposed appropriation of revenue or moneys does or does not relate

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[1] See the second footnote on page 44 *supra*.

[2] Section 67A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

to the above heads, the decision of the Governor-General on the question shall be final.

(5) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant.

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor-General in Council, who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(8) Notwithstanding anything in this section the Governor-General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.]

Provision for case of failure to pass legislation

[1][**67B**. (*1*) Where either chamber of the Indian legislature refuses leave to introduce, or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof, and thereupon—

(*a*) If the Bill has already been passed by the other chamber, the Bill shall, on signature by the Governor-General, notwithstanding that it has not been consented to by both chambers, forthwith become an Act of the Indian legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian legislature, or (as the case may be) in the form recommended by the Governor-General; and

(*b*) If the Bill has not already been so passed, the Bill shall be laid before the other chamber, and, if consented to by that chamber in the form

[1] Section 67B was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

recommended by the Governor-General, shall become an Act as aforesaid on the signification of the Governor-General's assent, or, if not so consented to, shall, on signature by the Governor-General, become an Act as aforesaid.

(2) Every such Act shall be expressed to be made by the Governor-General, and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent until copies thereof have been laid before each House of Parliament for not less than eight days on which that house has sat; and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the Indian legislature and duty assented to:

Provided that where in the opinion of the Governor-General a state of emergency exists which justifies such action, the Governor-General may direct that any such Act shall come into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.]

Assent of Governor-General to Bills

68. (*1*) When [1][a Bill] has been passed [2][by both chambers of the Indian legislature], the Governor-General, [3][* * *], may declare that he assents to the [4][Bill], or that he withholds assent from the [4][Bill], or that he reserves the [4][Bill] for the signification of His Majesty's pleasure thereon.

(*2*) [5][A Bill passed by both chambers of the Indian legislature shall not become an Act] until the Governor-General has declared his assent thereto, or, in the case of [6][a Bill] reserved for the signification of His Majesty's pleasure, until His Majesty [7][in Council] has signified his assent [8][* * *], and that assent has been notified by the Governor-General.

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[1] These words were substituted for the words "an Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "at a meeting of the Indian Legislative Council" by *ibid.*

[3] The words "whether he was or was not present in Council at the passing thereof" were omitted by *ibid.*

[4] This word was substituted for the word "Act" by *ibid.*

[5] These words were substituted for the words "An Act of the Governor-General in Legislative Council has not validity" by *ibid.*

[6] These words were substituted for the words "an Act" by *ibid.*

[7] These words were inserted by *ibid.*

[8] The words "to the Governor-General through the Secretary of State in Council" were omitted by *ibid.*

Powers of Crown to disallow Acts

69. (*1*) When an Act of the [1][Indian legislature] has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty [2][in Council] to signify [3][* * *] his disallowance of any such Act.

(*2*) Where the disallowance of any such Act has been so signified, the Governor-General shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

70. [*Rules for conduct of legislative business*]. Omitted by Part II of Sch. II of 9 & 10 Geo. 5, Ch. 101.

Regulations and Ordinances

Power to make regulations

71. (*1*) The local Government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council the draft of any regulation for the peace and good government of that part, with the reasons for proposing the regulation.

(*2*) Thereupon the Governor-General in Council may take any such draft and reasons into consideration; and when any such draft has been approved by the Governor-General in Council and assented to by the Governor-General, it shall be published in the Gazette of India and in the local official gazette, if any, and shall thereupon have the like force of law and be subject to the like disallowance as if it were an Act of the [4][Indian legislature].

(*3*) The Governor-General shall send to the Secretary of State in Council an authentic copy of every regulation to which he has assented under this section.

[5][(*3a*) A regulation made under this section for any territory shall not be invalid by reason only that it confers or delegates power to confer on courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions, or that it confers or delegates power to confer appellate jurisdiction or functions on courts or administrative authorities sitting or acting outside the territory.]

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[1] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by *ibid.*

[3] The words "through the Secretary of State in Council" were omitted by *ibid.*

[4] These words were substituted for the words "Governor-General in Legislative Council" by *ibid.*

[5] This sub-section was inserted by section 2 (1) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

(4) The Secretary of State may, by resolution in council, apply this section to any part of British India, as from a date to be fixed in the resolution, and withdraw the application of this section from any part to which it has been applied.

Power to make ordinances in case of emergency

72. The Governor-General may, in cases of emergency, make and promulgate ordinances for the peace and good government of British India or any part thereof, and any ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the [1][Indian legislature] but the power of making ordinances under this section is subject to the like restrictions as the power of the [1][Indian legislature] to make laws; and any ordinance made under this section is subject to the like disallowance as an Act passed by the [1][Indian legislature] and may be controlled or superseded by any such Act.

LOCAL LEGISLATURES

(a) *Governors' Provinces*

Composition of governors' legislative councils

[2][**72A.** (1) There shall be a legislative council in every governor's province, which shall consist of the members of the executive council and of members nominated or elected as provided by this Act.

The governor shall not be a member of the legislative council, but shall have the right of addressing the council, and may for that purpose require the attendance of its members.

(2) The number of members of the governors' legislative councils shall be in accordance with the table set out in the First Schedule to this Act; and of the members of each council not more than twenty per cent shall be official members, and at least seventy per cent shall be elected members:

Provided that—

(a) subject to the maintenance of the above proportions, rules under this Act may provide for increasing the number of members of any council, as specified in that schedule; and

(b) the governor may, for the purpose of any Bill introduced or proposed to be introduced in

[1] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Section 72A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

his legislative council, nominate, in the case of Assam one person, and in the case of other provinces not more than two persons, having special knowledge or experience of the subject-matter of the Bill, and those persons shall, in relation to the Bill, have for the period for which they are nominated all the rights of members of the council, and shall be in addition to the numbers above referred to; and

(*c*) members nominated to the legislative council of the Central Provinces by the governor as the result of elections held in the Assigned Districts of Berar shall be deemed to be elected members of the legislative council of the Central Provinces.

(*3*) The powers of a governor's legislative council may be exercised notwithstanding any vacancy in the council.

(*4*) Subject as aforesaid, provision may be made by rules under this Act as to—

(*a*) the term of office of nominated members of governors' legislative councils, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, resignation duly accepted, or otherwise; and

(*b*) the conditions under which and manner in which persons may be nominated as members of governors' legislative councils; and

(*c*) the qualification of electors, the constitution of constituencies, and the method of election for governors' legislative councils, including the number of members to be elected by communal and other electorates, and any matters incidental or ancillary thereto; and

(*d*) the qualifications for being and for being nominated or elected a member of any such council; and

(*e*) the final decision of doubts or disputes as to the validity of any election; and

(*f*) the manner in which the rules are to be carried into effect:

Provided that rules as to any such matters as aforesaid may provide for delegating to the local government such power as may be specified in the rules of making subsidiary regulations affecting the same matters.

(5) Subject to any such rules any person who is a ruler or subject of any State in India may be nominated as a member of a governor's legislative council.

[1][72B. (1) Every governor's legislative council shall continue for three years from its first meeting: *Sessions and duration of governors' legislative councils*

Provided that—

(a) the council may be sooner dissolved by the governor; and

(b) the said period may be extended by the governor for a period not exceeding one year, by notification in the official gazette of the province, if in special circumstances (to be specified in the notification) he so think fit; and

(c) after the dissolution of the council the governor shall appoint a date not more than six months, or, with the sanction of the Secretary of State, not more than nine months from the date of dissolution for the next session of the council.

(2) A governor may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council.

(3) Any meeting of a governor's legislative council may be adjourned by the person presiding.

(4) All questions in a governor's legislative council shall be determined by a majority of votes of the members present other than the person presiding, who shall, however, have and exercise a casting vote in the case of an equality of votes.]

[1][72C. (1) There shall be a president of a governor's legislative council, who shall, until the expiration of a period of four years from the first meeting of the council as constituted under this Act, be a person appointed by the governor, and shall thereafter be a member of the council elected by the council and approved by the governor: *Presidents of governors' legislative councils*

Provided that, if at the expiration of such period of four years the council is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the next ensuing session.

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[1] Sections 72B and 72C were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(2) There shall be a deputy-president of a governor's legislative council who shall preside at meetings of the council in the absence of the president, and who shall be a member of the council elected by the council and approved by the governor.

(3) The appointed president of a council shall hold office until the date of the first election of a president by the council under this section, but he may resign office by writing under his hand addressed to the governor, or may be removed from office by order of the governor, and any vacancy occurring before the expiration of the term of office of an appointed president shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office on ceasing to be members of the council. They may resign office by writing under their hands addressed to the governor, and may be removed from office by a vote of the council with the concurrence of the governor.

(5) The president and the deputy-president shall receive such salaries as may be determined, in the case of an appointed president, by the governor, and in the case of an elected president or deputy-president, by Act of the local legislature.]

Business and procedure in governors' legislative councils

[1][72D. (1) The provisions contained in this section shall have effect with respect to business and procedure in governors' legislative councils.

(2) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the council in each year, and the proposals of the local government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the council in the form of demands for grants. The council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed:

Provided that—

(a) the local government shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a

[1] Section 72D was inserted by Part I of Sch. II of Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

reserved subject, and the governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject; and

(*b*) the governor shall have power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department; and

(*c*) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made except on the recommendation of the governor, communicated to the council.

(3) Nothing in the foregoing sub-section shall require proposals to be submitted to the council relating to the following heads of expenditure:—

(*i*) contributions payable by the local government to the Governor-General in Council; and

(*ii*) interest and sinking fund charges on loans; and

(*iii*) expenditure of which the amount is prescribed by or under any law; and

(*iv*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(*v*) salaries of judges of the high court of the province and of the advocate-general.

If any question arises whether any proposed appropriation of moneys does or does not relate to the above heads of expenditure, the decision of the governor shall be final.

(4) Where any Bill has been introduced or is proposed to be introduced, or any amendment to a Bill is moved or proposed to be moved, the governor may certify that the Bill or any clause of it or the amendment affects the safety or tranquillity of his province or any part of it or of another province, and may direct that no proceedings or no further proceedings shall be taken by the council in relation to the Bill, clause or amendment, and effect shall be given to any such direction.

(5) Provision may be made by rules under this Act for the purpose of carrying into effect the foregoing provisions of this section and for regulating the course of business in the council, and as to the persons to preside over meetings thereof in the absence of the president and deputy-president, and the preservation of order at meetings; and the rules may provide for the number of members required to

constitute a quorum and for prohibiting or regulating the asking of questions on and the discussion of any subject specified in the rules.

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in the council, in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the governor in council, but may, subject to the assent of the governor, be altered by the local legislatures. Any standing order made as aforesaid, which is repugnant to the provisions of any rules made under this Act, shall, to the extent of that repugnancy but not otherwise, be void.

(7) Subject to the rules and standing orders affecting the council, there shall be freedom of speech in the governors' legislative councils. No person shall be liable to any proceedings in any court by reason of his speech or vote in any such council, or by reason of anything contained in any official report of the proceedings of any such council.]

Note.—Vide Government of India Notification, Reforms Office, No. 1-G., dated 3rd January 1921.

Provision for case of failure to pass legislation in governors' legislative councils

[1][**72E.** (*1*) Where a governor's legislative council has refused leave to introduce, or has failed to pass in a form recommended by the governor, any Bill relating to a reserved subject, the governor may certify that the passage of the Bill is essential for the discharge of his responsibility for the subject, and thereupon the Bill shall, notwithstanding that the council have not consented thereto, be deemed to have passed, and shall on signature by the governor become an Act of the local legislature in the form of the Bill as originally introduced or proposed to be introduced in the council or (as the case may be) in the form recommended to the council by the governor.

(*2*) Every such Act shall be expressed to be made by the governor, and the governor shall forthwith send an authentic copy thereof to the Governor-General, who shall reserve the Act for the signification of His Majesty's pleasure, and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the local legislature and duly assented to:

Provided that where in the opinion of the Governor-General a state of emergency exists which justifies such

[1] Section 72E was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

action, he may, instead of reserving such Act, signify his assent thereto, and thereupon the Act shall have such force and effect as aforesaid, subject however to disallowance by His Majesty in Council.

(3) An Act made under this section shall, as soon as practicable after being made, be laid before each House of Parliament, and an Act which is required to be presented for His Majesty's assent shall not be so presented until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat.]

(b) Lieutenant-Governors' and Chief Commissioners' Provinces

Legislative councils of lieutenant-governors and chief commissioners

73. (1) For purposes of legislation, the council of [1][* * *] a lieutenant-governor having an executive council, shall consist of the members of his executive council [2][and of members nominated or elected as hereinafter provided].

[3](2) * * * *

(3) The legislative council of a lieutenant-governor not having an executive council, or of a chief commissioner, shall consist of members nominated or elected [4][as hereinafter provided].

[5](4) * * * *

74. [*Constitution of legislative councils in Bengal, Madras and Bombay.*] Omitted by Part II of Schedule II of 9 and 10 Geo. 5, Ch. 101.

75. [*Meetings of legislative councils of Bengal, Madras and Bombay.*] Omitted by Part II of Scheule II of 9 and 10 Geo. 5, Ch. 101.

Constitution of legislative councils of lieutenant-governors and chief commissioners

76. (1) The number of members nominated or elected to the legislative council of a lieutenant-governor or chief commissioner, the number of such members required to constitute a quorum, the term of office of such members, and the manner of filling casual vacancies occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise shall, in the case of each such council, be such as may be prescribed by rules made under this [6][section].

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[1] The words "a governor, or of" were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 and 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "with the addition of members nominated or elected in accordance with rules made under this Act" by *ibid.*

[3] Sub-section (2) was omitted by Part III of *ibid.*

[4] These words were substituted for the words "in accordance with rules made under this Act" by Part II of *ibid.*

[5] Sub-section (4) was omitted by *ibid.*

[6] This word was substituted for the word "Act" by *ibid.*

[1][Provided that the number of members so nominated or elected shall not, in the case of the legislative council of a lieutenant-governor, exceed one hundred.]

(2) At least one-third of the persons so nominated or elected to the legislative council of a lieutenant-governor or chief commissioner must be [2][non-officials].

(3) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to the conditions under which and manner in which persons resident in India may be nominated or elected members of any of those legislative councils, and as to the qualifications for being, and for being nominated or elected, a member of any of those councils, and as to any other matter for which rules are authorised to be made under this section, and as to the manner in which those rules are to be carried into effect.

[3][(3a) Rules made under this section may provide for the final decision of doubts or disputes as to the validity of an election.]

[3][(3b) Subject to any rules made under this section, any person who is a ruler or subject of any state in India shall be eligible to be nominated a member of a legislative council.]

(4) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and those rules shall not be subject to repeal or alteration by the [4][Indian legislature or the local legislature].

Power to constitute local legislatures in lieutenant-governors' and chief commissioners' provinces

77. (1) When a new lieutenant-governorship is constituted under this Act, the Governor-General in Council may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute the lieutenant-governor in legislative council of the province, as from a date specified in the notification, a local legislature for that province, and define the limits of the province for which the lieutenant-governor in legislative council is to exercise legislative powers.

(2) The Governor-General in Council may, by notification, extend the provisions of this Act relating to legislative

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[1] This proviso was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch 101).

[2] This word was substituted for the words "persons not in the civil or military service of the Crown in India" by *ibid.*

[3] Sub-sections (3a) and (3b) were inserted by section 1 (2) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[4] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

councils of lieutenant-governors, subject to such modifications and adaptations as he may consider necessary, to any province for the time being under a chief commissioner.

Meetings of legislative councils of lieutenant-governors and chief commissioners

78. (*1*) [1][A lieutenant-governor or a chief commissioner who has a legislative council may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council, and any meeting of the legislative council of a lieutenant-governor or chief commissioner may be adjourned by the person presiding.] Every lieutenant-governor who has no executive council, and every chief commissioner who has a legislative council, shall appoint a member of his legislative council to be vice-president thereof.

(*2*) In the absence of the lieutenant-governor or chief commissioner from any meeting of his legislative council the person to preside thereat shall be the vice-president of the council, or, in his absence, the member of the council who is highest in official rank among those holding office under the Crown who are present at the meeting, or, during the discussion of the annual financial statement or of any matter of general public interest, [2][or when questions are asked] the vice-president, or the member appointed to preside [3][* * *].

[4][(*3*) All questions at a meeting of the legislative council of a lieutenant-governor or chief commissioner shall be determined by a majority of votes of the members present other than the lieutenant-governor, chief commissioner, or presiding member, who shall, however, have and exercise a casting vote in case of an equality of votes.]

[4][(*4*) Subject to rules affecting the council, there shall be freedom of speech in the legislative councils of lieutenant-governors and chief commissioners. No person shall be liable to any proceedings in any court by reason of his speech or vote in those councils, or by reason of anything contained in any official report of the proceedings of those councils.]

79. [*Powers of local legislatures.*]—Omitted by Part II of Sch. II of 9 and 10 Geo. 5, Ch. 101.

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[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[3] The words "in accordance with rules made under this Act" were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[4] Sub-sections (3) and (4) were substituted for sub-section (3) by *ibid.*

Business at meetings of councils of lieutenant-governors and chief commissioners

80. (*1*) At a meeting of a local legislative council [1][other than a governor's legislative council] no motion shall be entertained other than a motion for leave to introduce a measure into the council for the purpose of enactment, or having reference to a measure introduced or proposed to be introduced into the council for that purpose, or having reference to some rule for the conduct of business in the council, and no business shall be transacted other than the consideration of those motions or the alteration of those rules.

[2](*2*) * * * *

(*3*) Notwithstanding anything in the foregoing provisions of this section, the local government [3][of a province other than a governor's province] may, with the sanction of the Governor-General in Council, make rules authorising, at any meeting of the local legislative council, the discussion of the annual financial statement of the local government, and of any matter of general public interest, and the asking of questions, under such conditions and restrictions as may be prescribed in the rules. Rules made under this sub-section for any council may provide for the appointment of a member of the council to preside at any such discussion [4][or when questions are asked] in the place of the [5][*] lieutenant-governor or chief commissioner, as the case may be, and of the vice-president, and shall be laid before both Houses of Parliament as soon as may be after they are made, and shall not be subject to repeal or alteration by the [6][Indian legislature] or the local legislature.

[7][(*4*) The local government of any province (other than a governor's province) for which a local legislative council is hereafter constituted under this Act shall, before the first meeting of that council, and with the sanction of the Governor-General in Council, make rules for the conduct of legislative business in that council (including rules for prescribing the mode of promulgation and authentication of laws passed by that council).]

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[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Sub-section (*2*) was omitted by *ibid.*

[3] These words were inserted by *ibid.*

[4] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[5] The word "governor" was omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[6] These words were substituted for the words "Governor-General in Legislative Council" by *ibid.*

[7] Sub-section (*4*) was inserted by *ibid.*

[1][(5) The local legislature of any such province may, subject to the assent of the lieutenant-governor or chief commissioner, alter the rules for the conduct of legislative business in the local council (including rules prescribing the mode of promulgation and authentication of laws passed by the council), but any alteration so made may be disallowed by the Governor-General in Council, and if so disallowed shall have no effect.]

(c) General

[2][**80A.** (*1*) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province. Powers of local legislatures

(*2*) The local legislature of any province may, subject to the provisions of the sub-section next following, repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than the local legislature.

(*3*) The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

(*a*) imposing or authorising the imposition of any new tax unless the tax is a tax scheduled as exempted from this provision by rules made under this Act; or

(*b*) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the government of India, provided that the imposition or alteration of a tax scheduled as aforesaid shall not be deemed to affect any such tax or duty; or

(*c*) affecting the discipline or maintenance of any part of His Majesty's naval, military, or air forces; or

(*d*) affecting the relations of the government with foreign princes or states; or

(*e*) regulating any central subjects; or

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[1] Sub-section (*5*) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Section 80A was inserted by Part I of *ibid*.

(*f*) regulating any provincial subject which has been declared by rules under this Act to be, either in whole or in part, subject to legislation by the Indian legislature, in respect of any matter to which such declaration applies ; or

(*g*) affecting any power expressly reserved to the Governor-General in Council by any law for the time being in force ; or

(*h*) altering or repealing the provisions of any law which, having been made before the commencement of the Government of India Act, 1919, by any authority in British India other than that local legislature, is declared by rules under this Act to be a law which cannot be repealed or altered by the local legislature without previous sanction ; or

(*i*) altering or repealing any provision of an Act of the Indian legislature made after the commencement of the Government of India Act, 1919, which by the provisions of such first-mentioned Act may not be repealed or altered by the local legislature without previous sanction :

Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the Governor-General in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

(*4*) The local legislature of any province has not power to make any law affecting any Act of Parliament.]

NOTE.—Vide Government of India Notification Reforms Office No. 1-G., dated 3rd January 1921.

Vacation of seats in local legislative council

[1][80B. An official shall not be qualified for election as a member of a local legislative council, and if any non-official member of a local legislative council, whether elected or nominated, accepts any office in the service of the Crown in India, his seat on the council shall become vacant :

Provided that for the purposes of this provision a minister shall not be deemed to be an official and a person shall not be deemed to accept office on appointment as a minister.]

Financial proposals

[1][80C. It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction

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[1] Sections 80B and 80C were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

of the governor, lieutenant-governor or chief commissioner, any measure affecting the public revenues of a province, or imposing any charge on those revenues.]

Assent to Bills

81. (*1*) When [1][a Bill] has been passed [2][by] a local legislative council, the governor, lieutenant-governor or chief commissioner, [3][* * *] may declare that he assents to or withholds his assent from the [4][Bill].

(*2*) If the governor, lieutenant-governor or chief commissioner withholds his assent from any such [4][Bill], the [4][Bill] [5][shall not become an Act].

(*3*) If the governor, lieutenant-governor or chief commissioner assents to any such [4][Bill], he shall forthwith send an authentic copy of the Act to the Governor-General, and the Act shall not have validity until the Governor-General has assented thereto and that assent has been signified by the Governor-General to, and published by, the governor, lieutenant-governor or chief commissioner.

(*4*) Where the Governor-General withholds his assent from any such Act, he shall signify to the governor, lieutenant-governor or chief commissioner in writing his reason for so withholding his assent.

Return and reservation of Bills

[6][**81A.** (*1*) Where a Bill has been passed by a local legislative council, the governor, lieutenant-governor or chief commissioner may, instead of declaring that he assents to or withholds his assent from the Bill, return the Bill to the council for reconsideration, either in whole or in part, together with any amendments which he may recommend, or, in cases prescribed by rules under this Act, may, and if the rules so require, shall, reserve the Bill for the consideration of the Governor-General.

(*2*) Where a Bill is reserved for the consideration of the Governor-General, the following provisions shall apply:—

(*a*) The governor, lieutenant-governor or chief commissioner may, at any time within six months from the date of the reservation of the Bill, with the consent of the Governor-General, return the Bill for further consideration by the

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1 These words were substituted for the words "an Act" by Part I of Sch. II of the Government of India Act, 1919 (9 and 10 Geo. 5, Ch. 101).

2 This word was substituted for the words "at a meeting of" by *ibid.*

3 The words "whether he was or was not present in council at the passing of the Act" were omitted by Part III of *ibid.*

4 This word was substituted for the word "Act" by Part II of *ibid.*

5 These words were substituted for the words "has no effect" by Part II of *ibid.*

6 Section 81A was inserted by Part I of *ibid.*

council with a recommendation that the council shall consider amendments thereto :

(*b*) After any Bill so returned has been further considered by the council, together with any recommendations made by the governor, lieutenant-governor or chief commissioner relating thereto, the Bill, if re-affirmed with or without amendment, may be again presented to the governor, lieutenant-governor or chief commissioner :

(*c*) Any Bill reserved for the consideration of the Governor-General shall, if assented to by the Governor-General within a period of six months from the date of such reservation, become law on due publication of such assent, in the same way as a Bill assented to by the governor, lieutenant-governor or chief commissioner, but if not assented to by the Governor-General within such period of six months, shall lapse and be of no effect unless before the expiration of that period either—

(*i*) the Bill has been returned by the governor, lieutenant-governor or chief commissioner for further consideration by the council ; or

(*ii*) in the case of the council not being in session, a notification has been published of an intention so to return the Bill at the commencement of the next session.

(*3*) The Governor-General may (except where the Bill has been reserved for his consideration), instead of assenting to or withholding his assent from any Act passed by a local legislature, declare that he reserves the Act for the signification of His Majesty's pleasure thereon, and in such case the Act shall not have validity until his Majesty in Council has signified his assent and his assent has been notified by the Governor-General.]

Power of Crown to disallow Acts of local legislatures

82. (*1*) When [1][an Act] has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty [2][in Council] to signify [3][* * *] his disallowance of [4][the Act].

[1] These words were substituted for the words "any such Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
[2] These words were inserted by *ibid*.
[3] The words "through the Secretary of State in Council" were omitted by *ibid*.
[4] These words were substituted for the words "any such Act" by *ibid*.

(2) Where the disallowance of [1][an Act] has been so signified, the governor, lieutenant-governor or chief commissioner shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

83. [*Rules for Conduct of legislative business.*]—Omitted by Part II of Schedule II of 9 and 10 Geo. 5, Ch. 101.

Validity of Indian Laws

84. (*1*) A law made by any authority in British India shall not be deemed invalid solely on account of any one or more of the following reasons:— Removal of doubts as to validity of certain Indian laws

(*a*) in the case of [2][an Act of the Indian legislature] [3][or a local legislature], because it affects the prerogative of the Crown; or

(*b*) in the case of any law, because the requisite proportion of [4][non-official members] was not complete at the date of its introduction into the council or its enactment; or

(*c*) in the case of [5][an Act of] a local legislature, because it confers on magistrates, being justices of the peace, the same jurisdiction over European British subjects as that legislature, by Acts duly made, could lawfully confer on magistrates in the exercise of authority over other British subjects in the like cases.

[3][A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy, but not otherwise, be void.]

[6][(*2*) Nothing in the Government of India Act, 1919, or this Act, or in any rule made thereunder, shall be construed as diminishing in any respect the powers of the Indian legislature as laid down in section sixty-five of this Act, and

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1 These words were substituted for the words "any such Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 These words were substituted for the words "a law made by the Governor-General in Legislative Council" by *ibid.*

3 These words were inserted by section 2 (*3*) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

4 These words were substituted for the words "members not holding office under the Crown in India" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

5 These words were substituted for the words "a law made by" by *ibid.*

6 This sub-section was inserted by Part I of *ibid.*

the validity of any Act of the Indian legislature or any local legislature shall not be open to question in any legal proceedings on the ground that the Act affects a provincial subject, or a central subject, as the case may be, and the validity of any Act made by the governor of a province shall not be so open to question on the ground that it does not relate to a reserved subject.]

PART VIA

Statutory Commission

Statutory commission

[1][84A. (*1*) At the expiration of ten years after the passing of the Government of India Act, 1919, the Secretary of State with the concurrence of both Houses of Parliament shall submit for the approval of His Majesty the names of persons to act as a commission for the purposes of this section.

(*2*) The persons whose names are so submitted, if approved by His Majesty, shall be a commission for the purpose of inquiring into the working of the system of government, the growth of education, and the development of representative institutions, in British India, and matters connected therewith, and the commission shall report as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of responsible government, then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable.

(*3*) The commission shall also inquire into and report on any other matter affecting British India and the provinces, which may be referred to the commission by His Majesty.]

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[1] Section 84A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

PART VII

Salaries, Leave of Absence, Vacation of Office, Appointments, etc.

Salaries and allowances of Governor-General and certain other officials in India

85. (*1*) There shall be paid to the Governor-General of India, and to the other persons mentioned in the Second Schedule to this Act, out of the revenues of India, such salaries, not exceeding in any case the maximum specified in that behalf in that Schedule, and such allowances (if any) for equipment and voyage, as the Secretary of State in Council may by order fix in that behalf, and, subject to or in default of any such order, as are payable at the commencement of this Act:

(*2*) Provided as follows:—

(*a*) an order affecting salaries of members of the Governor-General's executive council may not be made without the concurrence of a majority of votes at a meeting of the Council of India;

(*b*) if any person to whom this section applies holds or enjoys any pension or salary, or any office of profit under the Crown or under any public office, his salary under this section shall be reduced by the amount of the pension, salary or profits of office so held or enjoyed by him;

(*c*) nothing in the provisions of this section with respect to allowances shall authorise the imposition of any additional charge on the revenues of India.

(*3*) The remuneration payable to a person under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein:

[1][Provided that nothing in this sub-section shall apply to the allowances or other forms of profit and advantage which may have been sanctioned for such persons by the Secretary of State in Council.]

Leave of absence to members of executive councils

86. (*1*) The Governor-General in Council may grant to any of the [2][*] members of his executive council [3][(other than the Commander-in-Chief)], and a governor in council [4][and a lieutenant-governor in council] may grant to any

[1] This proviso was inserted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The word "ordinary" was omitted by Part II of *ibid.*

[3] These words were inserted by *ibid.*

[4] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

member of his executive council, leave of absence under medical certificate for a period not exceeding six months.

(2) Where a member of council obtains leave of absence in pursuance of this section, he shall retain his office during his absence, and shall on his return and resumption of his duties be entitled to receive half his salary for the period of his absence; but if his absence exceeds six months his office shall become vacant.

Provisions as to absence from India

87. (1) If the Governor-General, or a governor, or the Commander-in-Chief of His Majesty's forces in India, and, [1][save in the case of absence on special duty or on leave under a medical certificate] if any [2][*] member of the executive council of the Governor-General, [3][(other than the Commander-in-Chief)] or any member of the executive council of a governor [4][or of a lieutenant-governor] departs from India, intending to return to Europe, his office shall thereupon become vacant.

[5](2)—(5) * * * *

88. [*Conditional appointments*]—Omitted by Pt. III of Sch. II of 9 and 10 Geo. 5, Ch. 101.

Power for Governor-General to exercise powers before taking seat

89. (1) If any person [6][* * *] appointed [7][*] to [8][the office of Governor-General], is in India on or after the event on which he is to succeed, and thinks it necessary to exercise the powers of Governor-General before he takes his seat in council, he may make known by notification his appointment and his intention to assume the office of Governor-General.

(2) After the notification, and thenceforth until he repairs to the place where the council may assemble, he may exercise alone all or any of the powers which might be exercised by the Governor-General in Council.

(3) All acts done in the council after the date of the notification, but before the communication thereof to the council, shall be valid, subject, nevertheless, to revocation

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[1] These words were substituted for the words "subject to the foregoing provisions of this Act as to leave of absence" by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The word "ordinary" was omitted by Part II of *ibid.*

[3] These words were inserted by Part II of *ibid.*

[4] These words were inserted by Part III of *ibid.*

[5] Sub-sections (2), (3), (4) and (5) were repealed by Sch. II of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[6] The words "entitled under a conditional appointment to succeed to the office of Governor-General or" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[7] The word "absolutely" was omitted by Part III of *ibid.*

[8] These words were substituted for the words "that office" by Part III of *ibid.*

or alteration by the person who has so assumed the office of Governor-General.

(4) When the office of Governor-General is assumed under the foregoing provision, the vice-president, or, if he is absent, the senior [1][member of the council (other than the Commander-in-Chief)] then present, shall preside therein, with the same powers as the Governor-General would have had if present.

90. (1) If a vacancy occurs in the office of Governor-General when there is no [2][* * *] successor in India to supply the vacancy, the governor [3][of a presidency] who was first appointed to the office of governor [3][of a presidency] by His Majesty shall hold and execute the office of Governor-General until a successor arrives or until some person in India is duly appointed thereto. Temporary vacancy in office of Governor-General

(2) Every such acting Governor-General, while acting as such, shall have and may exercise all the rights and powers of the office of Governor-General, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the salary and allowances appertaining to his office of governor; and his office of governor shall be supplied, for the time during which he acts as Governor-General, in the manner directed by this Act with respect to vacancies in the office of governor.

(3) If, on the vacancy occurring, it appears to the governor, who by virtue of this section holds and executes the office of Governor-General, necessary to exercise the powers thereof before he takes his seat in council, he may make known by notification his appointment, and his intention to assume the office of Governor-General, and thereupon the provisions of [4][section eighty-nine of this Act [5][* * *] shall apply.

(4) Until such a governor has assumed the office of Governor-General, if no [6][* * *] successor is on the spot to supply such vacancy, the vice-president, or, if he is absent, the senior [7][*] member of the executive council [8][(other

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[1] These words were substituted for the words "ordinary member of the Council" by Part II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The words "conditional or other" were omitted by Part III of *ibid.*

[3] These words were inserted by Part II of *ibid.*

[4] These words were substituted for the words "this Act" by Part III of *ibid.*

[5] The words "respecting the assumption of the office by a person conditionally appointed to succeed thereto" were omitted by Part III of *ibid.*

[6] The words "conditional or other" were omitted by Part III of *ibid.*

[7] The word "ordinary" was omitted by Part II of *ibid.*

[8] These words were inserted by *ibid.*

than the Commander-in-Chief)] shall hold and execute the office of Governor-General until the vacancy is filled in accordance with the provisions of this Act.

(5) Every vice-president or other member of council so acting as Governor-General, while so acting, shall have and may exercise all the rights and powers of the office of Governor-General and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing his salary and allowances as member of council for that period.

Temporary vacancy in office of governor

91. (1) If a vacancy occurs in the office of governor when no [1][* * *] successor is on the spot to supply the vacancy, the vice-president, or, if he is absent, the senior member of the governor's executive council, or, if there is no council, the chief secretary to the local Government, shall hold and execute the office of governor until a successor arrives, or until some other person on the spot is duly appointed thereto.

(2) Every such acting governor shall, while acting as such, be entitled to receive the emoluments and advantages appertaining to the office of governor, foregoing the salary and allowances appertaining to his office of member of council or secretary.

Temporary vacancy in office of member of an executive council

92. (1) If a vacancy occurs in the office of [2][a member] of the executive council of the Governor-General [3][(other than the Commander-in-Chief)], or a member of the executive council of a governor, and there is no [1][* * *] successor present on the spot, the Governor-General in Council, or governor in council, as the case may be, shall supply the vacancy by appointing a temporary member of council.

(2) Until a successor arrives the person so appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing all emoluments and advantages to which he was entitled at the time of his being appointed to that office.

(3) If [2][a member] of the executive council of the Governor-General [3][(other than the Commander-in-Chief)], or

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[1] The words "conditional or other" were omitted by Part III of Sch. II of the Government of India Act, 1911 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "an ordinary member" by Part II of *ibid.*

[3] These words were inserted by Part II of *ibid.*

any member of the executive council of a governor is, by infirmity or otherwise, rendered incapable of acting or of attending to act as such, or is absent on leave, [1][or special duty] [2][* * *] the Governor-General in Council or governor in council, as the case may be, shall appoint some person to be a temporary member of council.

(*4*) Until the return to duty of the member so incapable or absent, the person [3][* *] temporarily appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive half the salary of the member of council whose place he fills, and also half the salary of any other office which he may hold, if he hold any such office, the remaining half of such last-named salary being at the disposal of the Governor-General in Council or governor in council, as the case may be.

(*5*) Provided as follows:—

(*a*) no person may be appointed a temporary member of council who might not have been appointed [4][* * *] to fill the vacancy supplied by the temporary appointment; and

(*b*) if the Secretary of State informs the Governor-General that it is not the intention of His Majesty to fill a vacancy in the Governor-General's executive council, no temporary appointment may be made under this section to fill the vacancy, and if any such temporary appointment has been made before the date of the receipt of the information by the Governor-General, the tenure of the person temporarily appointed shall cease from that date.

93. (*1*) A nominated or elected member of [5][either chamber of the Indian legislature] or of a local legislative council may resign his office to the Governor-General or to the governor, lieutenant-governor or chief commissioner, as the case may be, and on the acceptance of the resignation the office shall become vacant. Vacancies in legislative councils

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1 These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

2 Certain words were omitted by Part III of *ibid.*

3 The words "conditionally or" were omitted by Part III of *ibid.*

4 The words "under this Act" were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

5 These words were substituted for the words "the Indian Legislative Council" by *ibid.*

(2) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office, the Governor-General, governor, lieutenant-governor or chief commissioner as the case may be, may, by notification published in the government gazette, declare that the seat in council of that member has become vacant.

Leave

94. Subject to the provisions of this Act, the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make rules as to the absence on leave [1][or special duty] of persons in the service of the Crown in India, and the terms as to continuance, variation or cessation of pay, salary and allowances on which any such [2][absence may be permitted].

Power to make rules as to Indian military appointments

95. (*1*) The Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, may make rules for distributing between the several authorities in India the power of making appointments to and promotions in [3][military] offices under the Crown in India, and may reinstate [3][military] officers and servants suspended or removed by any of those authorities.

(*2*) Subject to such rules, all appointments to [3][military] offices and commands in India, and all [3][military] promotions, which, by law, or under any regulations, usage or custom, are, at the commencement of this Act, made by any authority in India, shall, subject to the qualifications, conditions, and restrictions then affecting such appointments and promotions, respectively, continue to be made in India by the like authority.

No disabilities in respect of religion, colour or place of birth

96. No native of British India, nor any subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them be disabled from holding any office under the Crown in India.

Qualification of rulers and subjects of certain states for office

[4][**96A.** Notwithstanding anything in any other enactment, the Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, declare that, subject to any conditions or restrictions prescribed in the notification, any named ruler or subject of any

[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] These words were substituted for the words "leave may be granted" by Sch. I of *ibid.*

[3] This word was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[4] Section 96-A was inserted by section 3 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

state in India shall be eligible for appointment to any civil or military office under the Crown to which a native of British India may be appointed, or any named subject of any state, or any named member of any independent race or tribe, in territory adjacent to India, shall be eligible for appointment to any such military office.]

PART VIIA

The Civil Services in India

[1][**96B.** (*1*) Subject to the provisions of this Act and of rules made thereunder, every person in the civil service of the Crown in India holds office during His Majesty's pleasure, and may be employed in any manner required by a proper authority within the scope of his duty, but no person in that service may be dismissed by any authority subordinate to that by which he was appointed, and the Secretary of State in Council may (except so far as he may provide by rules to the contrary) reinstate any person in that service who has been dismissed. The civil services in India

If any such person appointed by the Secretary of State in Council thinks himself wronged by an order of an official superior in a governor's province, and on due application made to that superior does not receive the redress to which he may consider himself entitled, he may, without prejudice to any other right of redress, complain to the governor of the province in order to obtain justice, and the governor is hereby directed to examine such complaint and require such action to be taken thereon as may appear to him to be just and equitable.

(*2*) The Secretary of State in Council may make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to local governments, or authorise the Indian legislature or local legislatures to make laws regulating the public services:

Provided that every person appointed before the commencement of the Government of India Act, 1919, by the

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[1] Section 96B was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Secretary of State in Council to the civil service of the Crown in India shall retain all his existing or accruing rights, or shall receive such compensation for the loss of any of them as the Secretary of State in Council may consider just and equitable.

(3) The right to pensions and the scale and conditions of pensions of all persons in the civil service of the Crown in India appointed by the Secretary of State in Council shall be regulated in accordance with the rules in force at the time of the passing of the Government of India Act, 1919. Any such rules may be varied or added to by the Secretary of State in Council and shall have effect as so varied or added to, but any such variation or addition shall not adversely affect the pension of any member of the service appointed before the date thereof.

Nothing in this section or in any rule thereunder shall prejudice the rights to which any person may, or may have, become entitled under the provisions in relation to pensions contained in the East India Annuity Funds Act, 1874. 37 & 38 Vict., c. 12

(4) For the removal of doubts it is hereby declared that all rules or other provisions in operation at the time of the passing of the Government of India Act, 1919, whether made by the Secretary of State in Council or by any other authority, relating to the civil service of the Crown in India, were duly made in accordance with the powers in that behalf, and are confirmed, but any such rules or provisions may be revoked, varied or added to by rules or laws made under this section.]

Public service commission

[1][**96C.** (*1*) There shall be established in India a public service commission, consisting of not more than five members, of whom one shall be chairman, appointed by the Secretary of State in Council. Each member shall hold office for five years, and may be re-appointed. No member shall be removed before the expiry of his term of office, except by order of the Secretary of State in Council. The qualifications for appointment, and the pay and pension (if any) attaching to the office of chairman and member, shall be prescribed by rules made by the Secretary of State in Council.

(*2*) The public service commission shall discharge, in regard to recruitment and control of the public services in India, such functions as may be assigned thereto by rules made by the Secretary of State in Council.]

Financial control

[1][**96D.** (*1*) An auditor-general in India shall be appointed by the Secretary of State in Council, and shall hold office during

[1] Sections 96C and 96D were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

His Majesty's pleasure. The Secretary of State in Council shall, by rules, make provision for his pay, powers, duties, and conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

(2) Subject to any rules made by the Secretary of State in Council, no office may be added to or withdrawn from the public service, and the emoluments of no post may be varied, except after consultation with such finance authority as may be designated in the rules, being an authority of the province or of the Government of India, according as the post is or is not under the control of a local government.]

Rules for Part VIIA

[1][**96E**. Rules made under this part of this Act shall not be made except with the concurrence of the majority of votes at a meeting of the Council of India.]

PART VIII

THE INDIAN CIVIL SERVICE

Rules for admission to the Indian Civil Service

97. (1) The Secretary of State in Council may, with the advice and assistance of the Civil Service Commissioners, make rules for the examination, under the superintendence of those Commissioners, of British subjects [2][and of persons in respect of whom a declaration has been made under [3] section 96A of this Act] who are desirous of becoming candidates for appointment to the Indian Civil Service.

(2) The rules shall prescribe the age and qualifications of the candidates, and the subjects of examination.

[4][(2a) The admission to the Indian Civil Service of a British subject who or whose father or mother was not born within His Majesty's dominions shall be subject to such restrictions as the Secretary of State in Council, with the advice and assistance of the Civil Service Commissioners, may think fit to prescribe, and all such restrictions shall be included in the rules.]

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1 Section 96E was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 These words were inserted by section 4 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

3 These words were substituted for "the last foregoing section" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

4 This sub-section was inserted by section 4 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

(3) All rules made in pursuance of this section shall be laid before Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(4) The candidates certified to be entitled under the rules shall be recommended for appointment according to the order of their proficiency as shown by their examination.

(5) Such persons only as are so certified may be appointed or admitted to the Indian Civil Service by the Secretary of State in Council.

[1][(6) Notwithstanding anything in this section, the Secretary of State may make appointments to the Indian Civil Service of persons domiciled in India, in accordance with such rules as may be prescribed by the Secretary of State in Council with the concurrence of the majority of votes at a meeting of the Council of India.

Any rules made under this sub-section shall not have force until they have been laid for thirty days before both Houses of Parliament.]

Offices reserved to the Indian Civil Service

98. Subject to the provisions of this Act, all vacancies happening in any of the offices specified or referred to in the Third Schedule to this Act, and all such offices which may be created hereafter, shall be filled from amongst the members of the Indian Civil Service.

Power to appoint certain persons to reserved offices

99. (1) The authorities in India, by whom appointments are made to offices in the Indian Civil Service, may appoint to any such office any person of proved merit and ability domiciled in British India and born [2][* * *] of parents habitually resident in India and not established there for temporary purposes only, although the person so appointed has not been admitted to that service in accordance with the foregoing provisions of this Act.

(2) Every such appointment shall be made subject to such rules as may be prescribed by the Governor-General in Council and sanctioned by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India.

(3) The Governor-General in Council may, by resolution, define and limit the qualification of persons who may be appointed under this section, but every resolution made for

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[1] This sub-section was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The words "in British India" were repealed by Sch. 1 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

that purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

100. (*1*) Where it appears to the authority in India by whom an appointment is to be made to any office reserved to members of the Indian Civil Service, that a person not being a member of that service ought, under the special circumstances of the case, to be appointed thereto, the authority may appoint thereto any person who has resided for at least seven years in India and who has, before his appointment, fulfilled all the tests (if *any*) which would be imposed in the like case on a member of that service. Power to make provisional appointments in certain cases

(*2*) Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State, with the special reasons for making it; and, unless the Secretary of State in Council approves the appointment, with the concurrence of a majority of votes at a meeting of the Council of India, and within twelve months from the date of the appointment intimates such approval to the authority by whom the appointment was made, the appointment shall be cancelled.

PART IX

The Indian High Courts

Constitution

101. (*1*) The high courts referred to in this Act are the high courts of judicature for the time being established in British India by letters patent. Constitution of high courts

(*2*) Each high court shall consist of a chief justice and as many other judges as His Majesty may think fit to appoint:

Provided as follows:—

(*i*) the Governor-General in Council may appoint persons to act as additional judges of any high court, for such period, not exceeding two years, as may be required; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the high court appointed by His Majesty under this Act;

(*ii*) the maximum number of judges of a high court including the chief justice and additional judges, shall be twenty.

(3) A judge of a high court must be—

(a) a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland, of not less than five years' standing; or

(b) a member of the Indian Civil Service of not less than ten years' standing, and having for at least three years served as, or exercised the powers of, a district judge; or

(c) a person having held judicial office, not inferior to that of a subordinate judge or a judge of a small cause court, for a period of not less than five years; or

(d) a person having been a pleader of a high court for a period of not less than ten years.

(4) Provided that not less than one-third of the judges of a high court, including the chief justice but excluding additional judges, must be such barristers or advocates as aforesaid, and that not less than one-third must be members of the Indian Civil Service.

(5) The high court for the North-Western Provinces may be styled the high court of judicature at Allahabad, and the high court at Fort William in Bengal is in this Act referred to as the high court at Calcutta.

Tenure of office of judges of high courts

102. (1) Every judge of a high court shall hold his office during His Majesty's pleasure.

(2) Any such judge may resign his office, in the case of the high court at Calcutta, to the Governor-General in Council, and in other cases to the local Government.

Precedence of judges of high courts

103. (1) The chief justice of a high court shall have rank and precedence before the other judges of the same court.

(2) All the other judges of a high court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their patents.

Salaries, etc., of judges of high courts

104. (1) The Secretary of State in Council may fix the salaries, allowances, furloughs, retiring pensions and (where necessary) expenses for equipment and voyage, of the chief justices and other judges of the several high courts, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof.

(2) The remuneration fixed for a judge under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein.

(*3*) If a judge of a high court dies during his voyage to India, or within six months after his arrival there, for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(*4*) If a judge of a high court dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

Provision for vacancy in the office of chief justice or other judge

105. (*1*) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice the Governor-General in Council in the case of the high court at Calcutta, and the local Government in other cases, shall appoint one of the other judges of the same high court to perform the duties of chief justice of the court, until some person has been appointed by His Majesty to the office of chief justice of the court, and has entered on the discharge of the duties of that office, or until the chief justice has returned from his absence, as the case requires.

(*2*) On the occurrence of a vacancy in the office of any other judge of a high court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, the Governor-General in Council in the case of the high court at Calcutta, and the local Government in other cases, may appoint a person, with such qualifications as are required in persons to be appointed to the high court, to act as a judge of the court; and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by His Majesty to the office of judge of the court, and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the Governor-General in Council or the local Government, as the case may be, sees cause to cancel the appointment of the acting judge.

Jurisdiction

Jurisdiction of high courts

106. (*1*) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the

high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and, subject to the provisions of any such letters patent, all such jurisdictions, powers and authority as are vested in those courts respectively at the commencement of this Act.

[1][(*1a*) The letters patent establishing or vesting jurisdiction, powers or authority in a high court may be amended from time to time by His Majesty by further letters patent.]

(*2*) The high courts have not and may not exercise any original jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force.

Powers of high court with respect to subordinate courts

107. Each of the high courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say:—

(*a*) call for returns;

(*b*) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction;

(*c*) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;

(*d*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts; and

(*e*) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts:

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any [2][law] for the time being in force, and shall require the previous approval, in the case of the high court at Calcutta, of the Governor-General in Council, and in other cases of the local Government.

Exercise of jurisdiction by single judges or division courts

108. (*1*) Each high court may by its own rules provide as it thinks fit for the exercise, by one or more judges, or by division courts constituted by two or more judges, of the high court, of the original and appellate jurisdiction vested in the court.

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[1] This sub-section was inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] This word was substituted for the word "Act" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

(*2*) The chief justice of each high court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the chief justice, are to constitute the several division courts.

109. (*1*) The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorize any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise any such jurisdiction in respect of [1][any British subject for the time being within] any part of India outside British India.

Power for Governor-General in Council to alter local limits of jurisdiction of high courts

(*2*) The Governor-General in Council shall transmit to the Secretary of State an authentic copy of every order made under this section.

(*3*) His Majesty may signify, through the Secretary of State in Council, his disallowance of any such order, and such disallowance shall make void and annul the order as from the day on which the Governor-General notifies that he has received intimation of the disallowance but no act done by any high court before such notification shall be deemed invalid by reason only of such disallowance.

110. (*1*) The Governor-General, each governor, [2][lieutenant-governor and chief commissioner] and each of the members of [3][the executive council of the Governor-General or of a governor or lieutenant-governor] [4][and a minister appointed under this Act], shall not—

Exemption from jurisdiction of high courts

(*a*) be subject to the original jurisdiction of any high court by reason of anything counselled, ordered or done by any of them in his public capacity only; nor

(*b*) be liable to be arrested or imprisoned in any suit or proceeding in any high court acting in the exercise of its original jurisdiction; nor

(*c*) be subject to the original criminal jurisdiction of any high court in respect of any offence not being treason or felony.

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[1] These words were substituted for the words "Christian subjects of His Majesty resident in" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] These words were inserted by *ibid.*

[3] These words were substituted for the words "their respective executive councils" by *ibid.*

[4] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(2) The exemption under this section from liability to arrest and imprisonment shall extend also to the chief justices and other judges of the several high courts.

Written order by Governor-General justification for act in any court in India

111. The order in writing of the Governor-General in Council for any act shall, in any proceeding, civil or criminal, in any high court acting in the exercise of its original jurisdiction, be a full justification of the act, except so far as the order extends to any European British subject; but nothing in this section shall exempt the Governor-General, or any member of his executive council, or any person acting under their orders, from any proceedings in respect of any such act before any competent court in England.

Law to be administered

Law to be administered in cases of inheritance and succession

112. The high courts at Calcutta, Madras and Bombay, in the exercise of their original jurisdiction in suits against inhabitants of Calcutta, Madras or Bombay, as the case may be, shall, in matters of inheritance and succession to lands, rents and goods, and in matters of contract and dealing between party and party, when both parties are subject to the same personal law or custom having the force of law, decide according to that personal law or custom, and when the parties are subject to different personal laws or customs having the force of law, decide according to the law or custom to which the defendant is subject.

Additional High Courts

Power to establish additional high courts

113. His Majesty may, if he sees fit, by letters patent, establish a high court of judicature in any territory in British India, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established any such jurisdiction, powers and authority as are vested in or may be conferred on any high court existing at the commencement of this Act; and, where a high court is so established in any area included within the limits of the local jurisdiction of another high court, His Majesty may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

Advocate-General

Appointment and powers of advocate-general

114. (1) His Majesty may, by warrant under His Royal Sign Manual, appoint an advocate-general for each of the presidencies of Bengal, Madras and Bombay.

(2) The advocate-general for each of those presidencies may take on behalf of His Majesty such proceedings as may be taken by His Majesty's Attorney-General in England.

[1][(3) On the occurrence of a vacancy in the office of advocate-general, or during any absence or deputation of an advocate-general, the Governor-General in Council in the case of Bengal, and the local Government in other cases, may appoint a person to act as advocate-general; and the person so appointed may exercise powers of an advocate-general until some person has been appointed by His Majesty to the office and has entered on the discharge of his duties, or until the advocate-general has returned from his absence or deputation, as the case may be, or until the Governor-General in Council or the local government, as the case may be, cancels the acting appointment.]

PART X

Ecclesiastical Establishment

115. (1) The bishops of Calcutta, Madras and Bombay have and may exercise within their respective dioceses such episcopal functions, and such ecclesiastical jurisdiction for the superintendence and good government of the ministers of the Church of England therein, as His Majesty may, by letters patent, direct. [2][His Majesty may also by letters patent make such provision as may be deemed expedient for the exercise of the episcopal functions and ecclesiastical jurisdiction of the bishop during a vacancy of any of the said sees or the absence of the bishop thereof.] Jurisdiction of Indian bishops

(2) The Bishop of Calcutta is the Metropolitan Bishop in India, subject nevertheless to the general superintendence and revision of the Archbishop of Canterbury [2][and as metropolitan shall have, enjoy, and exercise such ecclesiastical jurisdiction and functions as His Majesty may by letters patent direct. His Majesty may also by letters patent make such provision as may be deemed expedient for the exercise of such jurisdiction and functions during a vacancy of the See of Calcutta or the absence of the bishop.]

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1 This sub-section was added by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

2 These words were inserted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(3) Each of the bishops of Madras and Bombay is subject to the Bishop of Calcutta as such Metropolitan, and must at the time of his appointment to his bishopric, or at the time of his consecration as bishop, take an oath of obedience to the Bishop of Calcutta, in such manner as His Majesty, by letters patent, may be pleased to direct.

(4) His Majesty may, by letters patent, vary the limits of the dioceses of Calcutta, Madras and Bombay.

(5) Nothing in this Act or in any such letters patent as aforesaid shall prevent any person who is or has been bishop of any diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of the bishop thereof.

116. [*Power to admit to holy orders.*] Rep. by Sch. II of 6 & 7 Geo. 5, Ch. 37.

Consecration of person resident in India appointed to bishopric

117. If any person under the degree of bishop is appointed to the bishopric of Calcutta, Madras or Bombay, being at the time of his appointment resident in India, the Archbishop of Canterbury, if so required to do by His Majesty by letters patent, may issue a commission under his hand and seal, directed to the two remaining bishops, authorising and charging them to peform all requisite ceremonies for the consecration of the person so to be appointed.

Salaries and allowances of bishops and archdeacons

118. (1) The bishops [1][* * *] of Calcutta, Madras and Bombay are appointed by His Majesty by letters patent [2][and the archdeacons of those dioceses by their respective diocesan bishops], and there may be paid to them, or to any of them, out of the revenues of India such salaries and allowances as may be fixed by the Secretary of State in Council; but any power of alteration under this enactment shall not be exercised so as to impose any additional charge on the revenues of India.

(2) The remuneration fixed for a bishop or archdeacon under this section shall commence on his taking upon himself the execution of his office, and be the whole profit or advantage which he shall enjoy from his office during his continuance therein, and continue so long as he exercises the functions of his office.

(3) There shall be paid out of the revenues of India the expenses of visitations of the said bishops, but no greater sum may be issued on account of those expenses than is allowed by the Secretary of State in Council.

1 The words "and archdeacons" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

2 These words were inserted by *ibid.*

119. (*1*) If the Bishop of Calcutta dies during his voyage to India for the purpose of taking upon himself the execution of his office, or if the Bishop of Calcutta, Madras or Bombay dies within six months after his arrival there for that purpose, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary. **Payments to representatives of bishops**

(*2*) If the Bishop of Calcutta, Madras or Bombay dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

120. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the [1][Secretary of State], grant, out of the revenues of India, to any Bishop of Calcutta a pension not exceeding fifteen hundred pounds per annum if he has resided in India as Bishop of Calcutta, Madras or Bombay or archdeacon for ten years, or one thousand pounds per annum if he has resided in India as Bishop of Calcutta [2][Madras or Bombay] for seven years, or seven hundred and fifty pounds per annum if he has resided in India as Bishop of Calcutta [2][Madras or Bombay] for five years, or to any Bishop of Madras or Bombay a pension not exceeding eight hundred pounds per annum [3][* * *] if he has resided in [4][*] India as such bishop for fifteen years. **Pensions to bishops**

121. His Majesty may make such rules as to the leave of absence of the Bishops of Calcutta, Madras and Bombay on furlough or medical certificate as seem to His Majesty expedient **Furlough rules**

122. (*1*) Two members of the establishment of Chaplains maintained in each of the presidencies of Bengal, Madras and Bombay must always be ministers of the Church of Scotland, and shall be entitled to have, out of the revenues of India, such salary as is from time to time allotted to the military chaplains in the several presidencies. **Establishment of chaplains of Church of Scotland**

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1 These words were substituted for the words "Chancellor of the Exchequer" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

2 These words were inserted by *ibid.*

3 The words "to be paid quarterly" were repealed by *ibid.*

4 The word "British" was repealed by *ibid.*

(2) The ministers so appointed chaplains must be ordained and inducted by the presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the presbytery of Edinburgh, whose judgments shall be subject to dissent, protest and appeal to the Provincial Synod of Lothian and Tweeddale and to the General Assembly of the Church of Scotland.

Savings as to grants to Christians

123. Nothing in this Act shall prevent the Governor-General in Council from granting, with the sanction of the Secretary of State in Council, to any sect, persuasion or community of Christians, not being of the Church of England or Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship.

PART XI

Offences, Procedure and Penalties

Certain acts to be misdemeanours

124. If any person holding office under the Crown in India does any of the following things, that is to say—

Oppression

(1) if he oppresses any British subject within his jurisdiction or in the exercise of his authority; or

Wilful disobedience

(2) if (except in case of necessity, the burden of proving which shall be on him) he wilfully disobeys, or wilfully omits, forbears or neglects to execute, any orders or instructions of the Secretary of State; or

Breach of duty

(3) if he is guilty of any wilful breach of the trust and duty of his office; or

Trading

(4) if, being the Governor-General, or a governor, lieutenant-governor or chief commissioner, or a member of the Executive Council of the Governor-General or of a governor or lieutenant-governor [1][or being a minister appointed under this Act] or being a person employed or concerned in the collection of revenue or the administration of justice, he is concerned in, or has any dealings or transactions by way of trade or business in any

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

part of India, for the benefit either of himself or of any other person, otherwise than as a shareholder in any joint-stock company or trading corporation ; or

(5) if he demands, accepts or receives, by himself or another, in the discharge of his office, any gift, gratuity or reward, pecuniary or otherwise, or any promise of the same, except in accordance with such rules as may be made by the Secretary of State as to the receipt of presents, and except in the case of fees paid or payable to barristers, physicians, surgeons and chaplains in the way of their respective professions, Receiving presents

he shall be guilty of a misdemeanour; and if he is convicted of having demanded, accepted or received any such gift, gratuity or reward, the same, or the full value thereof shall be forfeited to the Crown, and the court may order that the gift, gratuity or reward, or any part thereof, be restored to the person who gave it, or be given to the prosecutor or informer and that the whole or any part of any fine imposed on the offender be paid or given to the prosecutor or informer, as the court may direct:

[1][Provided that notwithstanding anything in this Act, if any member of the Governor-General's Executive Council or any member of any local Government was at the time of his appointment concerned or engaged in any trade or business, he may, during the term of his office with the sanction in writing of the Governor-General, or, in the case of ministers, of the governor of the province, and in any case subject to such general conditions and restrictions as the Governor-General in Council may prescribe, retain his concern or interest in that trade or business, but shall not, during that term, take part in the direction or management of that trade or business.]

125. (1) If any European British subject, without the previous consent in writing of the Secretary of State in Council or of the Governor-General in Council or of a local Government, by himself or another,— Loans to princes or chiefs

(a) lends any money or other valuable thing to any prince or chief in India; or

(b) is concerned in lending money to, or raising or procuring money for, any such prince or chief,

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[1] This proviso was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

or becomes security for the repayment of any such money; or

(*c*) lends any money or other valuable thing to any other person for the purpose of being lent to any such prince or chief; or

(*d*) takes, holds, or is concerned in any bond, note or other security granted by any such prince or chief for the repayment of any loan or money hereinbefore referred to,

he shall be guilty of a misdemeanour.

(*2*) Every bond, note, or security for money, of what kind or nature soever, taken, held or enjoyed, either directly or indirectly, for the use and benefit of any European British subject, contrary to the intent of this section, shall be void.

Carrying on dangerous correspondence

126. (*1*) If any person carries on, mediately or immediately, any illicit correspondence, dangerous to the peace or safety of any part of British India, with any prince, chief, land-holder or other person having authority in India, or with the commander, governor, or president of any foreign European settlement in India, or any correspondence, contrary to the rules and orders of the Secretary of State or of the Governor-General in Council or a Governor in Council, he shall be guilty of a misdemeanour; and the Governor-General or governor may issue a warrant for securing and detaining in custody any person suspected of carrying on any such correspondence.

(*2*) If on examination taken on oath in writing of any credible witness before the Governor-General in Council or the Governor in Council, there appear reasonable grounds for the charge, the Governor-General or governor may commit the person suspected or accused to safe custody, and shall within a reasonable time, not exceeding five days, cause to be delivered to him a copy of the charge on which he is committed.

(*3*) The person charged may deliver his defence in writing, with a list of such witnesses as he may desire to be examined in support thereof.

(*4*) The witnesses in support of the charge and of the defence shall be examined and cross-examined on oath in the presence of the person charged, and their depositions and examination shall be taken down in writing.

(*5*) If, notwithstanding the defence, there appear to the Governor-General in Council or Governor in Council

reasonable grounds for the charge and for continuing the confinement, the person charged shall remain in custody until he is brought to trial in India or sent to England for trial.

(*6*) All such examinations and proceedings, or attested copies thereof under the seal of the high court, shall be sent to the Secretary of State as soon as may be, in order to their being produced in evidence on the trial of the person charged in the event of his being sent for trial to England.

(*7*) If any such person is to be sent to England, the Governor General or governor, as the case may be, shall cause him to be so sent at the first convenient opportunity, unless he is disabled by illness from undertaking the voyage in which case he shall be so sent as soon as his state of health will safely admit thereof.

(*8*) The examinations and proceedings transmitted in pursuance of this section shall be received as evidence in all courts of law, subject to any just exceptions as to the competency of the witnesses.

Prosecution of offences in England

127. (*1*) If any person holding office under the Crown in India commits any offence under this Act, or any offence against any person within his jurisdiction or subject to his authority, the offence may, without prejudice to any other jurisdiction, be inquired of, heard, tried and determined before His Majesty's High Court of Justice, and be dealt with as if committed in the county of Middlesex.

(*2*) Every British subject shall be amenable to all courts of justice in the United Kingdom, of competent jurisdiction to try offences committed in India, for any offence committed within India and outside British India, as if the offence had been committed within British India.

Limitation for prosecutions in British India

128. Every prosecution before a high court in British India in respect of any offence referred to in the last foregoing section must be commenced within six years after the commission of the offence.

Penalties

129. If any person commits any offence referred to in this Act he shall be liable to such fine or imprisonment or both as the court thinks fit, and shall be liable, at the discretion of the court, to be adjudged to be incapable of serving the Crown in India in any office, civil or military; and, if he is convicted in British India by a high court, the court may order that he be sent to Great Britain.

PART XII

SUPPLEMENTAL

Provisions as to rules

[1][129A. (1) Where any matter is required to be prescribed or regulated by rules under this Act and no special provision is made as to the authority by whom the rules are to be made, the rules shall be made by the Governor-General in Council, with the sanction of the Secretary of State in Council, and shall not be subject to repeal or alteration by the Indian legislature or by any local legislature.

(2) Any rules made under this Act may be so framed as to make different provision for different provinces.

(3) Any rules to which sub-section (1) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and, if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder:

Provided that the Secretary of State may direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament, and in such case the rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications and additions to which both Houses agree, but upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made shall be of full force and effect, and shall not require to be further laid before Parliament.]

Repeal

130. The Acts specified in the Fourth Schedule to this Act are hereby repealed, to the extent mentioned in the third column of that Schedule:

Provided that this repeal shall not affect—

(a) the validity of any law, charter, letters patent, Order in Council, warrant, proclamation, notification, rule, resolution, order, regulation, direction or contract made, or form prescribed, or table settled, under any enactment hereby

[1] Section 129A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

repealed and in force at the commencement of this Act, or

(*b*) the validity of any appointment, or any grant or appropriation of money or property made under any enactment hereby repealed, or

(*c*) the tenure of office, conditions of service, terms of remuneration or right to pension of any officer appointed before the commencement of this Act.

[1] [Any reference in any enactment, whether an Act of Parliament or made by any authority in British India, or in any rules, regulations or orders made under any such enactment, or in any letters patent or other document, to any enactment repealed by this Act, shall for all purposes be construed as references to this Act, or to the corresponding provision thereof.]

[1] [Any reference in any enactment in force in India, whether an Act of Parliament or made by any authority in British India, or in any rules, regulations, or orders made under any such enactment, or in any letters patent or other document, to any Indian legislative authority, shall for all purposes be construed as references to the corresponding authority constituted by this Act.]

Saving as to certain rights and powers

131. (*1*) Nothing in this Act shall derogate from any rights vested in His Majesty, or any powers of the Secretary of State in Council, in relation to the government of India.

(*2*) Nothing in this Act shall affect the power of Parliament to control the proceedings of the Governor-General in Council, or to repeal or alter any law made by any authority in British India, or to legislate for British India and the inhabitants thereof.

(*3*) Nothing in this Act shall affect the power of the [2] [Indian legislature] to repeal or alter any of the provisions mentioned in the Fifth Schedule to this Act, or the validity of any previous exercise of this power.

Treaties, contracts and liabilities of East India Company

132. All treaties made by the East India Company, so far as they are in force at the commencement of this Act, are binding on His Majesty, and all contracts made and

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[1] These paragraphs were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "Governor-General in Legislative Council" by Part II of *ibid*.

liabilities incurred by the East India Company may, so far as they are outstanding at the commencement of this Act, be enforced by and against the Secretary of State in Council.

Orders of East India Company

133. All orders, regulations and directions lawfully made or given by the Court of Directors of the East India Company, or by the Commissioners for the Affairs of India, are so far as they are in force at the commencement of this Act, deemed to be orders, rules and directions made or given by the Secretary of State under this Act.

Definitions

134. In this Act, unless the context otherwise requires,—

(*1*) "Governor-General in Council" means the Governor-General in Executive Council;

(*2*) "governor in council" means a governor in executive council;

(*3*) "lieutenant-governor in council" means a lieutenant-governor in executive council;

[1][(*4*) "local government" means, in the case of a governor's province, the governor in council or the governor acting with ministers (as the case may require), and, in the case of a province other than a governor's province, a lieutenant-governor in council, lieutenant-governor or chief commissioner;

"local legislative council" includes the legislative council in any governor's province, and any other legislative council constituted in accordance with this Act;

"local legislature" means, in the case of a governor's province, the governor and the legislative council of the province, and, in the case of any other province, the lieutenant-governor or chief commissioner in legislative council];

(*5*) "office" includes place and employment;

(*6*) "province" includes a presidency; and

(*7*) references to rules made under this Act include rules or regulations made under any enactment hereby repealed, until they are altered under this Act.

[2][The expressions "official" and "non-official", where used in relation to any person, mean respectively a person

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[1] Paragraph (4) was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] This paragraph was inserted by Part I of Sch. II of *ibid.*

who is or is not in the civil and military service of the Crown in India:

Provided that rules under this Act may provide for the holders of such offices as may be specified in the rules not being treated for the purposes of this Act, or any of them, as officials.]

Short title

[1][**135.** This Act may be cited as the Government of India Act.]

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[1] Sec. 135 was substituted by Part II of Sch. II of the Government of India Act 1919 (9 & 10 Geo. 5, Ch. 101).

SCHEDULES

Section 72A

[1] FIRST SCHEDULE

NUMBER OF MEMBERS OF LEGISLATIVE COUNCILS

Legislative Council.	Number of Members.
Madras	118
Bombay	111
Bengal	125
United Provinces	118
Punjab	83
Bihar and Orissa	98
Central Provinces	70
Assam	53

Section 85

SECOND SCHEDULE

[2] OFFICIAL SALARIES, ETC.

Officer.	Maximum annual salary.
Governor-General of India	Two hundred and fifty-six thousand rupees.
Governor of Bengal, Madras, Bombay, and the United Provinces.	One hundred and twenty-eight thousand rupees.
Commander-in-Chief of His Majesty's forces in India.	One hundred thousand rupees.
Governor of the Punjab, and Bihar and Orissa.	One hundred thousand rupees.
Governor of the Central Provinces ...	Seventy-two thousand rupees.
Governor of Assam	Sixty-six thousand rupees.
Lieutenant-Governor	One hundred thousand rupees.
Member of the Governor-General's Executive Council (other than the Commander-in-Chief).	Eighty thousand rupees.
Member of the executive council of the governor of Bengal, Madras, Bombay, and the United Provinces.	Sixty-four thousand rupees.
Member of the executive council of the governor of the Punjab, and Bihar and Orissa.	Sixty thousand rupees.
Member of the executive council of the governor of the Central Provinces.	Forty-eight thousand rupees.
Member of the executive council of the governor of Assam.	Forty-two thousand rupees.

[1] This Schedule was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo, 5, Ch. 101).

[2] This Schedule was substituted by Part II of *ibid.*

[1] THIRD SCHEDULE

Section 98

OFFICES RESERVED TO THE INDIAN CIVIL SERVICE

A—Offices under the Governor-General in Council

1. The offices of secretary, joint secretary, and deputy secretary in every department except the Army, Marine, Education, Foreign, Political, and Public Works Departments: Provided that if the office of secretary or deputy secretary in the Legislative Department is filled from among the members of the Indian Civil Service, then the office of deputy secretary or secretary in that department as the case may be, need not be so filled.

2. Three offices of Accountants-General.

B—Offices in the provinces which were known in the year 1861 as "Regulation Provinces"

The following offices, namely:—

1. Member of the Board of Revenue.
2. Financial Commissioner.
3. Commissioner of Revenue.
4. Commissioner of Customs.
5. Opium Agent.
6. Secretary in every department except the Public Works or Marine Departments.
7. Secretary to the Board of Revenue.
8. District or sessions judge.
9. Additional district or sessions judge.
10. District magistrate.
11. Collector of Revenue or Chief Revenue Officer of a district.

[1] This Schedule was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Section 130

FOURTH SCHEDULE

Acts repealed

Session and Chapter.	Short Title.	Extent of Repeal.
10 Geo. 3, c. 47 ...	The East India Company Act, 1770.	The whole Act.
13 Geo. 3, c. 63 ...	The East India Company Act, 1772.	The whole Act, except sections forty-two, forty-three and forty-five.
21 Geo. 3, c. 70 ...	The East India Company Act, 1780.	The whole Act, except section eighteen.
26 Geo. 3, c. 57 ...	The East India Company Act, 1786.	Section thirty-eight.
33 Geo. 3, c. 52 ...	The East India Company Act, 1793.	The whole Act.
37 Geo. 3, c. 142 ...	The East India Company Act, 1797.	The whole Act, except section twelve.
39 & 40 Geo. 3, c. 79.	The Government of India Act, 1800.	The whole Act.
53 Geo. 3, c. 155 ...	The East India Company Act, 1813.	The whole Act.
55 Geo. 3, c. 84 ...	The Indian Presidency Towns Act, 1815.	The whole Act.
4 Geo. 4, c. 71 ...	The Indian Bishops and Courts Act, 1823.	The whole Act.
6 Geo. 4, c. 85 ...	The Indian Salaries and Pensions Act, 1825.	The whole Act.
7 Geo. 4, c. 56 ...	The East India Officers' Act, 1826.	The whole Act.
3 & 4 Will. 4, c. 85 ...	The Government of India Act, 1833.	The whole Act, except section one hundred and twelve.
5 & 6 Will. 4, c. 52 ...	The India (North-West Provinces) Act, 1835.	The whole Act.
7 Will. 4 and 1 Vict., c. 47.	The India Officers' Salaries Act, 1837.	The whole Act.
5 & 6 Vict., c. 119 ...	The Indian Bishops Act, 1842.	The whole Act.
16 & 17 Vict., c. 95 ...	The Government of India Act, 1853.	The whole Act.
17 & 18 Vict., c. 77 ...	The Government of India Act, 1854.	The whole Act.
21 & 22 Vict., c. 106...	The Government of India Act, 1858.	The whole Act, except section four.
22 & 23 Vict., c. 41 ...	The Government of India Act, 1859.	The whole Act.
23 & 24 Vict., c. 100...	The European Forces (India) Act, 1860.	The whole Act.
23 & 24 Vict., c. 102...	The East India Stock Act, 1860.	The whole Act, except section six.
24 & 25 Vict., c. 54 ...	The Indian Civil Service Act, 1861.	The whole Act.
24 & 25 Vict., c. 67 ...	The Indian Councils Act, 1861.	The whole Act.
24 & 25 Vict., c. 104 ..	The Indian High Courts Act, 1861.	The whole Act.
28 & 29 Vict., c. 15 ...	The Indian High Courts Act, 1865.	The whole Act.
28 & 29 Vict., c. 17 ...	The Government of India Act, 1865.	The whole Act.
32 & 33 Vict., c. 97 ...	The Government of India Act, 1869.	The whole Act.
32 & 33 Vict., c. 98 ...	The Indian Councils Act, 1869.	The whole Act.

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict., c. 3 ..	The Government of India Act, 1870.	The whole Act.
33 & 34 Vict., c. 59 ...	The East India Contracts Act, 1870.	The whole Act.
34 & 35 Vict, c. 34 ...	The Indian Councils Act, 1871.	The whole Act.
34 & 35 Vict., c. 62 ...	The Indian Bishops Act, 1871.	The whole Act.
37 & 38 Vict., c. 3 ...	The East India Loan Act, 1874.	Section fifteen.
37 & 38 Vict., c. 77 ...	The Colonial Clergy Act, 1874.	Section thirteen.
37 & 38 Vict., c. 91 ...	The Indian Councils Act, 1874.	The whole Act.
43 Vict., c. 3 ...	The Indian Salaries and Allowances Act, 1880.	The whole Act.
44 & 45 Vict., c. 63 .	The India Office Auditor Act, 1881.	The whole Act.
47 & 48 Vict., c. 38 ...	The Indian Marine Service Act, 1884.	Sections two, three, four and five.
55 & 56 Vict., c. 14 ...	The Indian Councils Act, 1892.	The whole Act.
3 Edw. 7, c. 11 ...	The Contracts (India Office) Act, 1903.	The whole Act.
4 Edw. 7, c. 26 ..	The Indian Councils Act, 1904.	The whole Act.
7 Edw. 7, c. 35 ...	The Council of India Act, 1907.	The whole Act.
9 Edw. 7, c. 4 ...	The Indian Councils Act, 1909.	The whole Act.
1 & 2 Geo. 5, c. 18 ...	The Indian High Courts Act, 1911.	The whole Act.
1 & 2 Geo. 5, c. 25 ...	The Government of India Act Amendment Act, 1911.	The whole Act.
2 & 3 Geo. 5, c. 6 ...	The Government of India Act, 1912.	The whole Act.

Section 13(13)

[1] FIFTH SCHEDULE

PROVISIONS OF THIS ACT WHICH MAY BE REPEALED OR ALTERED BY THE [2][INDIAN LEGISLATURE].

Section.	Subject.
62	Power to extend limits of presidency towns.
106	Jurisdiction, powers and authority of high courts.
108 (1)	Exercise of jurisdiction of high court by single judges or division courts.
109	Power for Governor-General in Council to alter local limits of jurisdiction of high courts, etc.
110	Exemption from jurisdiction of high courts.
111	Written order by Governor-General in Council a justification for act in high court.
112	Law to be administered in cases of inheritance, succession, contract and dealing between party and party.
114 (2)	Powers of advocate-general.
124 (1)	Oppression.
124 (4) – so far as it relates to persons employed or concerned in the collection of revenue or the administration of justice.	Trading.
124 (5)—so far as it relates to persons other than the Governor-General, a governor, or a member of the Executive Council of the Governor-General or of a governor.	Receiving presents.
125	Loans to princes or chiefs.
126	Carrying on dangerous correspondence.
128	Limitation for prosecutions in British India.
129	Penalties.

[1] This schedule was substituted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

APPENDIX

Sections of the Government of India Act, 1919, not incorporated in the Government of India Act

37. (2) The Indian Civil Service (Temporary Provisions) Act, 1915 (which confers power during the war and for a period of two years thereafter to make appointments to the Indian Civil Service without examination), shall have effect as though 'three years' were substituted for 'two years.' 5 & 6 Geo. 5 c. 87.

47. (2) This Act shall come into operation on such date or dates as the Governor-General in Council, with the approval of the Secretary of State in Council, may appoint, and different dates may be appointed for different provisions of this Act, and for different parts of India.

On the dates appointed for the coming into operation of the provisions of this Act as respects any executive or legislative council all the members of the council then in office shall go out of office, but may, if otherwise qualified, be reappointed, renominated or re-elected, as the case may be, in accordance with the provisions of the principal Act as amended by this Act.

(5) If any difficulty arises as to the first establishment of the Indian legislature or any legislative council after the commencement of this Act or otherwise in first giving effect to the provisions of this Act, the Secretary of State in Council or the Governor-General in Council, as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

INDIAN ELECTIONS OFFENCES AND INQUIRIES ACT

ACT No. XXXIX of 1920

An Act to provide for the punishment of malpractices in connexion with elections, and to make further provision for the conduct of inquiries in regard to disputed elections to legislative bodies constituted under the Government of India Act

WHEREAS it is expedient to provide for the punishment of malpractices in connexion with elections, and to make further provision for the conduct of inquiries in regard to disputed elections to legislative bodies constituted under the Government of India Act; It is hereby enacted as follows:—

PRELIMINARY

Short title and extent.

1. (*1*) This Act may be called the Indian Elections Offences and Inquiries Act, 1920; and

(*2*) It extends to the whole of British India.

PART I

AMENDMENT OF THE INDIAN PENAL CODE AND CODE OF CRIMINAL PROCEDURE

Amendment of the Indian Penal Code

2. (*1*) In section 21 of the Indian Penal Code, after the tenth entry, the following shall be inserted, namely :—" *Eleventh.*—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election"; and after *Explanation* 2, the following shall be added, namely :— XLV of 1860.

" *Explanation* 3.—The word 'election' denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election."

(*2*) After Chapter IX of the same Code the following Chapter shall be inserted, namely :—

"Chapter IX-A

Of offences relating to elections.

171-A. For the purposes of this Chapter—

"Candidate," "Electoral right" defined.

(*a*) "Candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat: provided that he is subsequently nominated as a candidate at such election;

(*b*) "Electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

171-B. (*1*) Whoever—

Bribery

(i) Gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) Accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(*2*) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(*3*) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

171-C. (*1*) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

Undue influence at elections

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), whoever—

(*a*) Threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(*b*) Induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (*1*).

(*3*) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

Personation at elections

171-D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name ; and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

Punishment for bribery

171-E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both :

Provided that bribery by treating shall be punished with fine only.

Explanation :— 'Treating' means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

Punishment for undue influence or personation at an election

171-F. Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

False statement in connexion with an election

171-G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

Illegal payments in connexion with an election

171-H. Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for

the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees :

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

Failure to keep election accounts

171-I. Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at, or in connexion with, an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.

V of 1898

Amendment of the Code of Criminal Procedure

3. (*1*) In section 196 of the Code of Criminal Procedure, 1898, after the words " Chapter VI " the words " or IX A " shall be inserted.

XLV of 1860

(*2*) In Schedule II to the same Code after the entries relating to Chapter IX of the Indian Penal Code the following shall be added, namely :—

" Chapter IX A.—Offences relating to elections.

171-E.	Bribery ..	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for one year, or fine, or both or if treating only, fine only.	Presidency Magistrate or Magistrate of the First Class.
171-F.	Undue influence and personation at an election.	Do.	Do.	Do.	Do.	Imprisonment of either description for one year, or fine, or both.	Do.
171-G.	False statement in connexion with an election.	Do.	Do.	Do.	Do.	Fine	Do.
171-H.	Illegal payments in connexion with elections.	Do	Do.	Do.	Do.	Fine of 500 rupees.	Do.
171-I.	Failure to keep election accounts.	Do.	Do.	Do.	Do.	Do.	Do. "

PART II

ELECTION INQUIRIES AND OTHER MATTERS

Definitions

4. In this Part, unless there is anything repugnant in the subject or context,—

(*a*) " costs " means all costs, charges and expenses of, or incidental to, an inquiry ;

(b) "election" means an election to either chamber of the Indian legislature or to a Legislative Council constituted under the Government of India Act;

(c) "inquiry" means an inquiry in respect of an election by Commissioners appointed for that purpose by the Governor-General, Governor or Lieutenant-Governor;

(d) "pleader" means any person entitled to appear and plead for another in a Civil Court and includes an advocate, a vakil, and an attorney of a High Court.

Powers of Commissioners

5. Commissioners appointed to hold an inquiry shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:— V of 1908

(a) discovery and inspection,

(b) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

(c) compelling the production of documents,

(d) examining witnesses on oath,

(e) granting adjournments,

(f) reception of evidence taken on affidavit, and

(g) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to them to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898. V of 1898

Explanation:—For the purposes of enforcing the attendance of witnesses, the local limits of the Commissioners' jurisdiction shall be the limits of the Province in which the election was held.

Application of Act I of 1872 to inquiries

6. The provisions of the Indian Evidence Act, 1872, shall, subject to the provisions of this Act, be deemed to apply in all respects to an inquiry. I of 1872

Documentary evidence

7. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

Obligation of witness to answer any certificate of indemnity

8. (1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in an inquiry upon the ground that the answer to such question will criminate or may tend, directly or indirectly, to criminate

him; or that it will expose, or tend, directly or indirectly, to expose him to a penalty or forfeiture of any kind:

Provided that—

(*i*) no person who has voted at an election shall be required to state for whom he has voted; and

(*ii*) a witness who, in the opinion of the Commissioners, has answered truly all questions which he has been required by them to answer shall be entitled to receive a certificate of indemnity, and such certificate may be pleaded by such person in any Court and shall be deemed to be a full and complete defence to or upon any charge under Chapter IX-A of the Indian Penal Code arising out of the matter to which such certificate relates, nor shall any such answer be admissible in evidence against him in any suit or other proceeding.

(*2*) Nothing in sub-section (*1*) shall be deemed to relieve a person receiving a certificate of indemnity from any disqualification in connexion with an election imposed by any law or any rule having the force of law.

Appearance by pleader

9. Any appearance, application or act before the Commissioners may be made or done by the party in person or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, if the Commissioners so direct, be made by the party in person.

Expenses of witnesses

10. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Commissioners to such person, and shall, unless the Commissioners otherwise direct, be deemed to be part of the costs.

Costs and pleaders' fees, etc.

11. (*1*) Costs shall be in the discretion of the Commissioners, and the Commissioners shall have full power to determine by and to whom and to what extent such costs are to be paid and to include in their report all necessary recommendations for the purposes aforesaid. The Commissioners may allow interest on costs at a rate not exceeding six per cent per annum, and such interest shall be added to the costs.

(*2*) The fees payable by a party in respect of fees of his adversary's pleader shall be such fees as the Commissioners may allow.

Execution of orders as to costs

12. Any order made by the Governor-General or Governor or Lieutenant-Governor on the report of the Commissioners regarding the costs of the inquiry may be produced before the principal

Civil Court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or, where such place is within the local limits of the ordinary original civil jurisdiction of a chartered High Court, before the Court of Small Causes having jurisdiction there, and such Court shall execute such order or cause it to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

Disqualification of persons found guilty of election offences

13. Any person who has been convicted of an offence under section 171-E. or 171-F. of the Indian Penal Code or has been disqualified from exercising any electoral right, for a period of not less than five years, on account of malpractices in connexion with an election shall be disqualified for five years from the date of such conviction or disqualification from— XLV of 1860

(*a*) being appointed to, or acting in, any judicial office ;

(*b*) being elected to any office of any local authority when the appointment to such office is by election, or holding or exercising any such office to which no salary is attached;

(*c*) being elected or sitting or voting as a member of any local authority ; or

(*d*) being appointed or acting as a trustee of a public trust :

Provided that the Governor-General, in the case of an election to the Council of State or the Legislative Assembly, and the Governor or the Lieutenant-Governor, in the case of an election to his Legislative Council, may exempt any such person from such disqualification.

Maintenance of secrecy of voting

14. (*1*) Every officer, clerk, agent or other person who performs any duties in connexion with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

(*2*) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for a term not exceeding three months or with fine, or with both.

SECRETARY OF STATE'S CONTROL REGARDING TRANSFERRED SUBJECTS

RULE UNDER SECTION 19-A OF THE GOVERNMENT OF INDIA ACT

The powers of superintendence, direction and control vested in the Secretary of State and the Secretary of State in Council under the Act or otherwise shall, in relation to transferred subjects, be exercised only for the following purposes, namely :—

(1) to safeguard the administration of central subjects ;

(2) to decide questions arising between two provinces in cases where the provinces concerned fail to arrive at an agreement ;

(3) to safeguard Imperial interests ;

(4) to determine the position of the Government of India in respect of questions arising between India and other parts of the British Empire ; and

(5) to safeguard the due exercise and performance of any powers and duties possessed by or imposed on the Secretary of State or the Secretary of State in Council, under or in connexion with or for the purposes of the following provisions of the Act, namely, Section 29-A, Section 30 (1-A), Part VII-A, or of any rules made by or with the sanction of the Secretary of State in Council.

LOCAL GOVERNMENT (BORROWING) RULES

* RULES UNDER SECTION 30 (1-A) OF THE GOVERNMENT OF INDIA ACT

Short Title and Commencement

1. (1) These rules may be called the Local Government (Borrowing) Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India. †

Purposes for which loans may be raised

2. A local Government may raise loans on the security of the revenues allocated to it for any of the following purposes, namely—

(*a*) to meet capital expenditure on the construction or acquisition (including the acquisition of land, maintenance during construction and equipment) of any work or permanent asset of a material character in connexion with a project of lasting public utility, provided that

(i) the proposed expenditure is so large that it cannot reasonably be met from current revenues ; and

(ii) if the project appears to the Governor-General in Council unlikely to yield a return of not less than such percentage as he may from time to time by order prescribe, arrangements are made for the amortisation of the debt ;

(*b*) to meet any classes of expenditure on irrigation which have under rules in force before the passing of the Act been met from loan funds :

(*c*) for the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity ;

(*d*) for the financing of the Provincial Loan Account ; and

(*e*) for the repayment or consolidation of loans raised in accordance with these rules or the repayment of advances made by the Governor-General in Council.

Sanction to Loans

3. (1) No loan shall be raised by a local Government without the sanction (in the case of loans to be raised in India) of the Governor-General in Council, or (in the case of loans to be raised outside India) of the Secretary of State in Council, and in sanctioning the raising of a loan the Governor-General in Council or the Secretary of State in Council, as the case may be, may specify the amount of the issue and any or all of the conditions under which the loan shall be raised.

(2) Every application for the sanction of the Secretary of State required by this rule shall be transmitted through the Governor-General in Council.

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* Government of India Notification (Reforms) No. 309-S., dated 16th December 1920.

† These rules have been brought into force with effect from 17th December 1920—vide Government of India Notification (Reforms) No. 315-S., dated 17th December 1920.

Priority

4. Every loan raised by a local Government in accordance with these rules shall be a charge on the whole of the revenues allocated to the local Government, and all payments in connexion with the service of such loans shall be made in priority to all payments by the local Government other than the payments of

(i) the fixed provincial contribution payable to the Governor-General in Council,

(ii) interest due on sums advanced to the local Government by the Governor-General in Council from the revenues of India, and

(iii) interest due on all loans previously raised by the local Government.

DEVOLUTION RULES

* Rules under section 45-A of the Government of India Act

Short Title and Commencement

1. (1) These rules may be called the Devolution Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India, and for different provisions of these rules. †

Definitions

2. In these rules, unless there is anything repugnant in the subject or context—

(*a*) "all-India revenues" means such portion of the revenues of India as is not allocated to local Governments under these rules;

(*b*) "Schedule" means a Schedule to these rules;

(*c*) "the Act" means the Government of India Act.

Part I—Classification of Subjects

3. (1) For the purpose of distinguishing the functions of the local Governments and local legislatures of Governors' provinces and of the province of Burma from the functions of the Governor-General in Council and the Indian legislature, subjects shall in those provinces be classified, in relation to the functions of Government, as central and provincial subjects in accordance with the lists set out in Schedule I.

(2) Any matter which is included in the list of provincial subjects set out in Part II of Schedule I shall, to the extent of such inclusion, be excluded from any central subject of which, but for such inclusion, it would form part.

Settlement of doubts

4. Where any doubt arises as to whether a particular matter does or does not relate to a provincial subject, the Governor-General in Council shall decide whether the matter does or does not so relate, and his decision shall be final.

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* Government of India Notification (Reforms) No. 308-S., dated 16th December 1920.

† All the provisions of these rules except those contained in rules 14, 15, 16, 24, 27, 28, 29, 47 and 48 and Schedule III have been brought into force with effect from 17th December 1920—*vide* Government of India Notification (Reforms) No. 314-S. dated 17th December 1920. The excepted provisions came into force on 1st April 1921.

Duty of Local Government to supply information

5. The local Government shall furnish to the Governor-General in Council from time to time such returns and information on matters relating to the administration of provincial subjects as the Governor-General in Council may require and in such form as he may direct.

Transfer of subjects and revocations or suspension of transfer

6. The provincial subjects specified in the first column of Schedule II shall, in the Governors' provinces shown against each subject in the second column of the said Schedule, be transferred subjects: provided that the Governor-General in Council may, by notification in the *Gazette of India*, with the previous sanction of the Secretary of State in Council, revoke or suspend for such period as he may consider necessary the transfer of any provincial subject in any province, and upon such revocation or during such suspension the subject shall not be a transferred subject.

Settlement of doubt

7. If any doubt arises as to whether any matter relates to a reserved or to a transferred subject, the Governor shall decide the question, and his decision shall be final.

Transfer in consequence of legislation

8. Where an Act of the Legislative Council of a Governor's province confers on local authorities powers of the management of matters relating to reserved subjects, those matters shall, to the extent of the powers conferred by such legislation, be deemed in that province to form part of the transferred subject of local self-government.

Matters affecting both reserved and transferred subjects

9. (1) When a matter appears to the Governor to affect substantially the administration both of a reserved and of a transferred subject, and there is disagreement between the member of the Executive Council and the minister concerned as to the action to be taken, it shall be the duty of the Governor, after due consideration of the advice tendered to him, to direct in which department the decision as to such action shall be given: provided that, in so far as circumstances admit, important matters on which there is such a difference of opinion shall before the giving of such direction be considered by the Governor with his Executive Council and his ministers together.

(2) In giving such a direction as is referred to in sub-rule (1), the Governor may, if he thinks fit, indicate the nature of the action which should in his judgment be taken, but the decision shall thereafter be arrived at by the Governor in Council or by the Governor and minister or ministers, according as the department to which it has been committed is a department dealing with reserved or a department dealing with transferred subjects.

Regulation of exercise of authority over members of public services

10. The authority vested in the local Government over officers of the public services employed in a Governor's province shall be exercised in the case of officers serving in a department dealing with reserved subjects by the Governor in Council, and in the case of officers serving in a department dealing with transferred subjects by the Governor acting with the minister in charge of the department: provided that—

(*a*) no order affecting emoluments or pensions, no order of formal censure, and no order on a memorial shall be passed to the disadvantage of an officer of an all-India or provincial service without the personal concurrence of the Governor; and

(*b*) no order for the posting of an officer of an all-India service shall be made without the personal concurrence of the Governor.

Service in a department

11. If an officer performs duties both in a Department dealing with reserved subjects and in a Department dealing with transferred subjects, the Governor shall decide in which Department he shall be deemed to be serving.

Employment of Indian Medical Service Officers

12. A local Government shall employ such number of Indian Medical Service officers in such appointments and on such terms and conditions as may be prescribed by the Secretary of State in Council.

Devolution

13. Subject to the provisions of these rules, provincial subjects shall be administered by the local Government. But, save in the case of transferred subjects, nothing in these rules shall derogate from the power of superintendence, direction and control conferred on the Governor-General in Council by the Act.

PART II—FINANCIAL ARRANGEMENTS

Allocation of revenue

*14. (1) The following sources of revenue shall, in the case of Governors' provinces and in the province of Burma, be allocated to the local Government as sources of provincial revenue, namely:—

(*a*) balances standing at the credit of the province at the time when the Act comes into force;

(*b*) receipts accruing in respect of any Provincial subject, other than the subject specified in entry 52 of Part II of Schedule I;

(*c*) a share (to be determined in the manner provided by rule 15) in the growth of revenue derived from income-tax collected in the province, so far as that growth is attributable to an increase in the amount of income assessed;

(*d*) recoveries of loans and advances given by the local Government and of interest paid on such loans;

(*e*) payments made to the local Government by the Governor-General in Council or by other local Governments, either for services rendered or otherwise;

* Came into force on 1st April 1921.

(*f*) the proceeds of any taxes which may be lawfully imposed for provincial purposes;

(*g*) the proceeds of any loans which may be lawfully raised for provincial purposes; and

(*h*) any other sources which the Governor-General in Council may by order declare to be sources of provincial revenue.

(2) the revenues of Berar shall be allocated to the local Government of the Central Provinces as a source of provincial revenue. This allocation shall be subject to the following conditions, namely,—

(i) that the local Government of the Central Provinces shall be responsible for the due administration of Berar; and

(ii) that if in the opinion of the Governor-General in Council provision has not been made for expenditure necessary for the safety and tranquillity of Berar, the allocation shall be terminated by order of the Governor-General in Council, or diminished by such amount as the Governor-General in Council may by order in writing direct.

* 15. (1) Whenever the assessed income of any year subsequent to the year 1920–21 exceeds in any Governor's Province or in the Province of Burma the assessed income of the year 1920–21, there shall be allocated to the Local Government of that Province an amount calculated at the rate of three pies in each rupee of the amount of such excess.

(2) In this rule "the assessed income" of any year (other than the year 1920–21) means the amount of income brought under assessment under the Indian Income-tax Act, 1918, in that year in respect of which income-tax is collected, whether in that year or thereafter:

Provided that the assessed income of any year subsequent to the year 1920–21 shall not include income in respect of which no share of the tax collected would have been credited to Provincial revenues if such income had accrued and been brought under assessment in the year 1920–21.

(3) The assessed income of the year 1920–21 shall be such amount as the Governor-General in Council, after making due allowance for arrears caused by any abnormal delays in the collection of the tax, may determine as the amount of income brought under assessment under the Indian Income-tax Act, 1918, in that year in respect of which income-tax is collected. It shall not include income in respect of which no share of the tax collected was credited to Provincial revenues.

Payment of Government revenues into the public account

† 16. All moneys derived from sources of provincial revenue shall be paid into the public account, of which the Governor-General in Council is custodian, and credited to the Government of the province. The Governor General in Council shall have power, with the previous sanction of the Secretary of State in Council, to prescribe by general or special order the procedure to be followed in the payment of moneys into, and in the withdrawal, transfer and disbursement of moneys from, the public account, and for the custody of moneys standing in the account. Such orders may, to such extent and for such purposes as may be stipulated, delegate power to prescribe procedure for the said purposes to the Auditor-General, the Controller of the Currency and to Local Governments.

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* In force from 1st April 1922. † Came into force on 1st April 1921.

Contributions by Local Governments in 1921–22

17. In the financial year 1921–22 contributions shall be paid to the Governor-General in Council by the local Governments mentioned below according to the following scale :—

Name of province.	Contributions. (In lakhs of rupees.)	Name of province.	Contributions. (In lakhs of rupees.)
Madras	348	Burma ..	64
Bombay ..	56	Central Provinces and Berar.	22
Bengal ..	63	Assam	15
United Provinces.	240		
Punjab ..	175		983

Contributions in subsequent years

18. (1) From the financial year 1922–23 onwards a total contribution of 983 lakhs, or such smaller sum as may be determined by the Governor-General in Council, shall be paid to the Governor-General in Council by the local Governments mentioned in the preceding rule. When for any year the Governor-General in Council determines as the total amount of the contribution a smaller sum than that payable for the preceding year, a reduction shall be made in the contributions of those local Governments only, whose last previous annual contribution exceeds the proportion specified below of the smaller sum so determined as the total contribution ; and any reduction so made shall be proportionate to such excess :—

Madras	17–90ths	Burma	6½–90ths
Bombay	13–90ths	Central Provinces and Berar.	5–90ths
Bengal	19–90ths	Assam	2½–90ths
United Provinces ..	18–90ths		
Punjab	9–90ths		

(2) Notwithstanding anything contained in sub-rule (1), the contribution payable thereunder by the local Government of Bengal in the financial years 1922–23, 1923–24 and 1924–25 shall be remitted by the Governor-General in Council :

Provided that for the purposes of sub-rule (1)—

(*a*) the sum determined by the Governor-General in Council as the total amount of the contribution for each of the said financial years shall include the contribution so remitted, and

(*b*) for the financial year 1925–26, the last previous annual contribution of the local Government of Bengal shall be deemed to be the remitted contribution for the year 1924–25.

Excess contributions in case of emergency

19. In cases of emergency the local Government of any province may be required by the Governor-General in Council, with the sanction of, and subject to conditions approved by, the Secretary of State to pay to the Governor-General in Council a contribution for any financial year in excess of the amount required by the preceding rules in the case of that year.

Priority of contributions

20. The contributions fixed under the preceding rules shall be a first charge on the allocated revenues and moneys of the local Governments

concerned, and shall be paid in such instalments, in such manner, and on such dates, as the Governor-General in Council may prescribe.

Withdrawal of balances

21. At any time when he considers this course to be essential in the financial interests of India as a whole, the Governor-General in Council shall have power to require any local Government to which revenues have been allocated under these rules so to regulate its programme of expenditure as not to reduce the balance at its credit in the public account on a specified date or dates below a stated figure, and shall have power to take the necessary steps by the restriction of issues of moneys to secure this end. Subject to this power, those local Governments shall be at liberty to draw on their balances, provided that notice of the amount which they propose to draw during the ensuing financial year is given to the Governor-General in Council before such date in each year as the Governor-General in Council may by order fix.

Interest on provincial balances

22. Whenever the Governor-General in Council has, on receipt of due notice of the intention of the local Government to draw on its balances, required it to reduce the extent of the proposed draft, he shall, at the end of the financial year in which the local Government is debarred from drawing, credit the local Government with interest on the amount which it was not permitted to draw. Such interest shall be a charge on the revenues of India and shall be calculated at the average rate at which the Governor-General in Council has borrowed money in the open market during the year by the issue of treasury bills.

Provincial Loan Account

23. Any moneys which, on the 1st day of April, 1921, are owed to the Governor-General in Council on account of advances made from the provincial loan account of any province shall be treated as an advance to the local Government from the revenues of India, and shall carry interest at a rate calculated on the average rate carried by the total amount owed to the Governor-General in Council on this account on the 31st March 1921. The interest shall be payable upon such dates as the Governor-General in Council may fix. In addition, the local Government shall pay to the Governor-General in Council in each year an instalment in repayment of the principal amount of the advance, and this instalment shall be so fixed that the total advance shall, except where for special reasons the Governor-General in Council may otherwise direct, be repaid before the expiry of twelve years. It shall be open to any local Government to repay in any year an amount in excess to the fixed instalment.

Capital expenditure on irrigation works

* 24. (1) The capital sums spent by the Governor-General in Council upon the construction in the various provinces of productive and protective irrigation works and of such other works financed from loan funds as may from time to time be handed over to the management of local Governments shall be treated as advances made to the local Governments from the revenues of India. Such advances shall carry interest at the following rates, namely:—

(*a*) in the case of outlay up to the end of the financial year 1916–17, at the rate of 3·3252 *per centum*;

* Came into force on 1st April 1921.

(b) in the case of outlay incurred after the financial year 1916–17, at the average rate of interest paid by the Governor-General in Council on loans raised in the open market since the end of that year.

(2) The interest shall be payable upon such dates as the Governor-General in Council may fix.

Advances by the Government of India

25. The Governor-General in Council may at any time make to a local Government an advance from the revenues or moneys accruing to the Governor-General in Council on such terms as to interest and repayment as he may think fit.

Priority of interest charges

26. The payment of interest on loans and advances made under the three preceding rules, and the repayment of the principal of an advance under rule 23, shall be a charge on the annual allocated revenues of the local Government, and shall have priority over all other charges, save only contributions payable to the Governor-General in Council.

Powers of sanctioning transferred expenditure

*27. (1) The local Government of a Governor's province shall not, without the previous sanction of the Secretary of State in Council or of the Governor-General in Council, as the case may be, include any proposal for expenditure on a transferred subject in a demand for a grant, if such sanction is required by the provisions of Schedule III to these rules.

(2) Subject to the provisions of sub-rule (1), the local Government of a Governor's province shall have power to sanction expenditure on transferred subjects to the extent of any grant voted by the Legislative Council.

(3) The local Government of a Governor's Province shall have power to sanction any expenditure on transferred subjects which relates to the heads enumerated in section 72-D (3) of the Act subject to the approval of the Secretary of State in Council or of the Governor-General in Council if any such approval is required by any rule for the time being in force.

Delegation of powers of sanction

*28. (1) The powers of a local Government under the preceding rule to sanction expenditure, may be delegated by the local Government to an authority subordinate to it, after previous consultation with the Finance Department, to such extent as may be required for the convenient and efficient despatch of public business.

(2) Any sanction accorded under these rules shall remain valid for the specified period for which it is given, subject, in the case of voted expenditure, to the voting of grants in each year.

Famine Insurance Fund

*29. Each local Government mentioned in Schedule IV shall establish and maintain out of provincial revenues a famine insurance fund in accordance with the provisions of that Schedule, and such fund shall be controlled and administered as required by those provisions.

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* Came into force on 1st April 1921.

Taxation and borrowing

30. All proposals for raising taxation or for the borrowing of money on the revenues of a province shall in the case of a Governor's province be considered by the Governor with his Executive Council and ministers sitting together, but the decision shall thereafter be arrived at by the Governor in Council, or by the Governor and minister or ministers, according as the proposal originates with the Governor in Council or the Governor and ministers.

Allocation of revenues for the administration of transferred subjects

31. Expenditure for the purpose of the administration of both reserved and transferred subjects shall, in the first instance, be a charge on the general revenues and balances of each province, and the framing of proposals for expenditure in regard to transferred and reserved subjects will be a matter for agreement between that part of the Government which is responsible for the administration of transferred subjects and that part of the Government which is responsible for the administration of reserved subjects.

Procedure in event of failure to agree

32. (1) If at the time of the preparation of the budget the Governor is satisfied that there is no hope of agreement within a reasonable time between the members of his Executive Council on the one hand and ministers on the other as to the apportionment of funds between reserved and transferred departments respectively, he may, by order in writing, allocate the revenue and balances of the province between reserved and transferred subjects, by specifying the fractional proportions of the revenues and balances which shall be assigned to each class of subject.

(2) An order of allocation under this rule may be made by the Governor either in accordance with his own discretion, or in accordance with the report of an authority to be appointed by the Governor-General in this behalf on the application of the Governor.

Period of order of allocation

33. Every such order shall (unless it is sooner revoked) remain in force for a period to be specified in the order, which shall be not less than the duration of the then existing Legislative Council, and shall not exceed by more than one year the duration thereof:

Provided that the Governor may at any time, if his Executive Council and ministers so desire, revoke an order of allocation or make such other allocation as has been agreed upon by them:

Provided further, that if the order which it is proposed to revoke was passed in accordance with the report of an authority appointed by the Governor-General, the Governor shall obtain the consent of the Governor-General before revoking the same.

Condition of order of allocation

34. Every order of allocation made under these rules shall provide that, if any increase of revenue accrues during the period of the order on account of the imposition of fresh taxation, that increase, unless the legislature otherwise directs, shall be allocated in aid of that part of the Government by which the taxation is initiated.

Preparation of budget in default of agreement or order of allocation

35. If at the time of the preparation of any budget no agreement or allocation such as is contemplated by these rules has been arrived at, the budget shall be prepared on the basis of the aggregate grants respectively provided for the reserved and transferred subjects in the budget of the year about to expire.

PART III—FINANCE DEPARTMENT

Finance Department

36. (1) There shall be in each Governor's province a Finance Department, which shall be controlled by a member of the Executive Council.

(2) Immediately subordinate to the member there shall be a financial secretary, with whom shall be associated, if the ministers so desire, a joint secretary appointed by the Governor after consultation with the ministers.

(3) The joint secretary shall be specially charged with the duty of examining and dealing with financial questions arising in relation to transferred subjects and with proposals for taxation or borrowing put forward by any minister.

Functions of Finance Department

37. The Finance Department shall perform the following functions, namely :—

(*a*) it shall be in charge of the account relating to loans granted by the local Government, and shall advise on the financial aspect of all transactions relating to such loans ;

(*b*) it shall be responsible for the safety and proper employment of the famine insurance fund ;

(*c*) it shall examine and report on all proposals for the increase or reduction of taxation ;

(*d*) it shall examine and report on all proposals for borrowing by the local Government ; shall take all steps necessary for the purpose of raising such loans as have been duly authorized ; and shall be in charge of all matters relating to the service of loans ;

(*e*) it shall be responsible for seeing that proper financial rules are framed for the guidance of other departments, and that suitable accounts are maintained by other departments and establishments subordinate to them ;

(*f*) it shall prepare an estimate of the total receipts and disbursements of the province in each year, and shall be responsible during the year for watching the state of the local Government's balances ;

(*g*) in connexion with the budget and with supplementary estimates—

(i) it shall prepare the statement of estimated revenue and expenditure which is laid before the Legislative Council in each year and any supplementary estimates or demands for excess grants which may be submitted to the vote of the Council ;

(ii) for the purpose of such preparation, it shall obtain from the departments concerned material on which to base its estimates, and it shall be responsible for the correctness of the estimates framed on the material so supplied ;

(iii) it shall examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates, and shall decline to provide in the estimates for any scheme which has not been so examined;

(*h*) on receipt of a report from an audit officer to the effect that expenditure for which there is no sufficient sanction is being incurred, it shall require steps to be taken to obtain sanction or that the expenditure shall immediately cease;

(*i*) it shall lay the audit and appropriation reports before the committee on public accounts, and shall bring to the notice of the committee all expenditure which has not been duly authorized and any financial irregularities;

(*j*) it shall advise departments responsible for the collection of revenue regarding the progress of collection and the methods of collection employed.

Powers of Finance Department with reference to reappropriation

38. (1) After grants have been voted by the Legislative Council—

(*a*) the Finance Department shall have power to sanction any reappropriation within a grant from one major, minor or subordinate head to another;

(*b*) the Member or Minister in charge of a department shall have power to sanction any reappropriation within a grant between heads subordinate to a minor head which does not involve undertaking a recurring liability, provided that a copy of any order sanctioning such a reappropriation shall be communicated to the Finance Department as soon as it is passed.

(2) The Finance Department shall have power to sanction the delegation by a Member or Minister to any officer or class of officers of the power of reappropriation conferred on such Member or Minister by clause (1) (*b*) above.

(3) Copies of orders sanctioning any reappropriation which does not require the sanction of the Finance Department shall be communicated to that department as soon as such orders are passed.

Matters to be referred to Finance Department

39. No expenditure on any of the heads detailed in section 72-D (3) of the Act, which is in excess of the estimate for that head shown in the budget of the year, shall be incurred without previous consultation with the Finance Department.

Establishment charges

40. No office may be added to, or withdrawn from, the public service in the province, and the emoluments of no post may be varied, except after consultation with the Finance Department; and, when it is proposed to add a permanent or temporary post to the public service, the Finance Department shall, if it thinks necessary, refer for the decision of the Audit Department the question whether the sanction of the Secretary of State in Council is, or is not, necessary.

Allowances and pay

41. No allowance, and no special or personal pay shall be sanctioned for any post or class of posts or for any Government servant without previous consultation with the Finance Department.

Grants and concessions

42. No grant of land or assignment of land revenue, except when the grant is made under the ordinary revenue rules of the province, shall be given without previous consultation with the Finance Department; and no concession, grant or lease of mineral or forest rights, of right to water power or of right-of-way or other easement, and no privilege in respect of such rights shall be given without such previous consultation.

Abandonment of revenue, etc.

43. No proposal involving an abandonment of revenue for which credit has been taken in the budget, or involving expenditure for which no provision has been made in the budget, shall be submitted for the consideration of the local Government or the Legislative Council nor shall any orders giving effect to such proposals issue, without a previous reference to the Finance Department.

Disposal of reports by Finance Department

44. Every report made by the Finance Department on any matter on which it is required to advise or report under these rules shall be forwarded to the department concerned and shall, if the Finance Department so require, be submitted by the department concerned to the Governor for the orders of the local Government. The Governor may, if he thinks fit, direct that any such report shall be laid before the committee on public accounts.

Presumption of assent of Finance Department

45. Wherever previous consultation with the Finance Department is required by these rules it shall be open to that Department to prescribe, by general or special order, cases in which its assent may be presumed to have been given.

PART IV—AGENCY

Agency employment of local Governments

46. The Governor-General in Council may employ the agency of the Governor in Council of any province in the administration of central subjects in so far as such agency may be found convenient.

Cost of agency establishments

*47. The cost of an establishment exclusively employed on the business of agency shall be a charge against all-India revenues.

Distribution of cost of joint establishment

*48. If a joint establishment is employed upon the administration of central and provincial subjects, the cost of such establishment may be distributed in such manner as the Governor-General in Council and the Governor in Council of the province concerned may agree, or, in the case of disagreement, in such manner as may be determined by the Secretary of State in Council.

* Came into force on 1st April 1921.

PART V—LIMITATION OF CONTROL

Limitation of control by Governor-General in Council over transferred subjects

49. The powers of superintendence, direction and control over the local Government of a Governor's province vested in the Governor-General in Council under the Act shall in relation to transferred subjects be exercised only for the following purposes, namely :—

(1) to safeguard the administration of central subjects ;

(2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement ; and

(3) to safeguard the due exercise and performance of any powers and duties possessed by, or imposed on, the Governor-General in Council under, or in connexion with, or for the purposes of the following provisions of the Act, namely section 29-A, section 30 (1 A), Part VII-A, or of any rules made by or with the sanction of the Secretary of State in Council.

SCHEDULE I

(*See rule* 3) *

PART I—CENTRAL SUBJECTS

1. (*a*) Defence of India, and all matters connected with His Majesty's Naval, Military and Air Forces in India, or with His Majesty's Indian Marine Service or with any other force raised in India, other than military and armed police wholly maintained by local Governments.

(*b*) Naval and military works and cantonments.

2. External relations, including naturalisation and aliens, and pilgrimages beyond India.

3. Relations with States in India.

4. Political charges.

5. Communications to the extent described under the following heads, namely :—

(*a*) railways and extra-municipal tramways, in so far as they are not classified as provincial subjects under entry 6 (*d*) of Part II of this Schedule ;

(*b*) aircraft and all matters connected therewith ;

(*c*) inland waterways, to an extent to be declared by rule made by the Governor-General in Council or by or under legislation by the Indian legislature.

6. Shipping and Navigation, including shipping and navigation on inland waterways in so far as declared to be a central subject in accordance with entry 5 (*c*).

7. Light-houses (including their approaches), beacons, lightships, and buoys.

8. Port quarantine, and marine hospitals.

† 9. Ports declared to be major ports by rule made by the Governor-General in Council or by or under legislation by the Indian legislature.

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* Page 109 supra.

† For he purposes of this entry the Governor-General in Council has declared the ports of Calcutta, Bombay, Karachi, Aden, Rangoon and Madras to be major ports.

10. Posts, telegraphs and telephones, including wireless installations.

11. Customs, cotton, excise duties, income-tax, salt, and other sources of all-India revenues.

12. Currency and coinage.

13. Public Debt of India.

14. Savings Banks.

15. The Indian Audit Department and excluded Audit Departments, as defined in rules framed under section 96-D (1) of the Act.

16. Civil law, including laws regarding status, property, civil rights and liabilities and civil procedure.

17. Commerce, including banking and insurance.

18. Trading companies and other associations.

19. Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor-General in Council or by or under legislation by the Indian legislature to be essential in the public interest.

20. Development of industries, in cases where such development by a central authority is declared by order of the Governor-General in Council, made after consultation with the Local Government or Local Governments concerned, expedient in the public interest.

21. Control of cultivation and manufacture of opium, and sale of opium for export.

22. Stores and stationery, both imported and indigenous, required for Imperial departments.

23. Control of petroleum and explosives.

24. Geological survey.

25. Control of mineral development, in so far as such control is reserved to the Governor-General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.

26. Botanical survey.

27. Inventions and designs.

28. Copyright.

29. Emigration from, and immigration into, British India, and inter-provincial migration.

30. Criminal law, including criminal procedure.

31. Central police organization.

32. Control of arms and ammunition.

33. Central agencies and institutions for research (including observatories) and for professional or technical training or promotion of special studies.

34. Ecclesiastical administration, including European cemeteries.

35. Survey of India.

36. Archæology.

37. Zoological survey.

38. Meteorology.

39. Census and statistics.

40. All-India Services.

41. Legislation in regard to any provincial subject, in so far as such subject is in Part II of this schedule stated to be subject to legislation

by the Indian legislature, and any powers relating to such subject reserved by legislation to the Governor-General in Council.

42. Territorial changes, other than intra-provincial, and declaration of laws in connexion therewith.

43. Regulation of ceremonial titles, orders, precedence and civil uniform.

44. Immovable property acquired by, and maintained at the cost of, the Governor-General in Council.

45. The Public Service Commission.

46. All matters expressly excepted by the provisions of Part II of this schedule from inclusion among provincial subjects.

47. All other matters not included among provincial subjects under Part II of this schedule.

Part II—Provincial Subjects

1. Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in a province for the purpose of local self-government, exclusive of matters arising under the Cantonments Act, 1910; subject to legislation by the Indian legislature as regards—

(*a*) the powers of such authorities to borrow otherwise than from a provincial Government, and

(*b*) the levying by such authorities of taxation not included in schedule II to the Scheduled Taxes Rules.

2. Medical administration, including hospitals, dispensaries, and asylums and provision for medical education.

3. Public health and sanitation and vital statistics; subject to legislation by the Indian legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian legislature.

4. Pilgrimages within British India

5. Education: provided that—

(*a*) the following subjects shall be excluded, namely:—

(i) the Benares Hindu University, and such other Universities constituted after the commencement of these rules, as may be declared by the Governor-General in Council to be central subjects, and

(ii) Chiefs' Colleges and any institution maintained by the Governor-General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants; and

(*b*) the following subjects shall be subject to legislation by the Indian legislature, namely:—

(i) the control of the establishment, and the regulation of the constitutions and functions of Universities constituted after the commencement of these rules, and

(ii) the definition of the jurisdiction of any University outside the province in which it is situated, and

(iii) for a period of five years from the date of the commencement of these rules, the Calcutta University, and the control and organization of secondary education in the Presidency of Bengal.

6. Public works included under the following heads, namely :—

(*a*) construction and maintenance of provincial buildings used or intended for any purpose in connexion with the administration of the province; and care of historical monuments, with the exception of ancient monuments as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (1) of that Act: provided that the Governor-General in Council may, by notification in the *Gazette of India*, remove any such monument from the operation of this exception;

(*b*) roads, bridges, ferries, tunnels, ropeways and causeways and other means of communication, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor-General in Council to be of military importance, and as regards incidence of special expenditure connected therewith as the Governor-General in Council may prescribe;

(*c*) tramways within municipal areas; and

(*d*) light and feeder railways and extra-municipal tramways in so far as provision for their construction and management is made by provincial legislation; subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connexion with a main line or is built on the same gauge as an adjacent main line.

7. Water supplies, irrigation and canals, drainage and embankments, water storage and water power; subject to legislation by the Indian legislature with regard to matters of inter-provincial concern or affecting the relations of a province with any other territory.

8. Land Revenue administration, as described under the following heads, namely :—

(*a*) assessment and collection of land revenue;

(*b*) maintenance of land records, survey for revenue purposes, records of rights;

(*c*) laws regarding land tenures, relations of landlords and tenants, collection of rents;

(*d*) Courts of Wards, incumbered and attached estates;

(*e*) land improvement and agricultural loans;

(*f*) colonization and disposal of Crown lands and alienation of land revenue; and

(*g*) management of Government estates.

9. Famine relief.

10. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases, subject to legislation by the Indian legislature in respect to destructive insects and pests and plant diseases, to such extent as may be declared by any Act of the Indian legislature.

11. Civil Veterinary department, including provision for veterinary training, improvement of stock, and prevention of animal diseases; subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature.

12. Fisheries.

13. Co-operative Societies.

14. Forests, including preservation of game therein; subject to legislation by the Indian legislature as regards disforestation of reserved forests.

15. Land acquisition; subject to legislation by the Indian legislature.

16. Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.

17. Administration of justice, including constitution, powers, maintenance and organization of Courts of civil and criminal jurisdiction within the province; subject to legislation by the Indian legislature as regards High Courts, Chief Courts, and Courts of Judicial Commissioners, and any Courts of criminal jurisdiction.

18. Provincial law reports.

19. Administrators-General and Official Trustees; subject to legislation by the Indian legislature.

20. Non-judicial stamps, subject to legislation by the Indian legislature, and judicial stamps, subject to legislation by the Indian legislature as regards amount of court-fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction.

21. Registration of deeds and documents; subject to legislation by the Indian legislature.

22. Registration of births, deaths and marriages; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine.

23. Religious and charitable endowments.

24. Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.

25. Development of industries, including industrial research and technical education.

26. Industrial matters included under the following heads, namely :—

(*a*) factories ;
(*b*) settlement of labour disputes ;
(*c*) electricity ;
(*d*) boilers ;
(*e*) gas ;
(*f*) smoke nuisances ; and
(*g*) welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing ;

subject as to heads (*a*), (*b*), (*c*), (*d*) and (*g*) to legislation by the Indian legislature.

27. Stores and stationery, subject, in the case of imported Stores and Stationery, to such rules as may be prescribed by the Secretary of State in Council.

28. Adulteration of foodstuffs and other articles; subject to legislation by the Indian legislature as regards import and export trade.

29. Weights and measures; subject to legislation by the Indian legislature as regards standards.

30. Ports, except such ports as may be declared by rule made by the Governor-General in Council or by or under Indian legislation to be major ports.

31. Inland waterways, including shipping and navigation thereon so far as not declared by the Governor-General in Council to be central subjects, but subject as regards inland steam-vessels to legislation by the Indian legislature.

32. Police, including railway police ; subject in the case of railway police to such conditions as regards limits of jurisdiction and railway contributions to cost of maintenance as the Governor-General in Council may determine.

33. The following miscellaneous matters, namely :—

(*a*) regulation of betting and gambling ;
(*b*) prevention of cruelty to animals ;
(*c*) protection of wild birds and animals ;
(*d*) control of poisons, subject to legislation by the Indian legislature ;
(*e*) control of motor vehicles, subject to legislation by the Indian legislature as regards licences valid throughout British India ; and
(*f*) control of dramatic performances and cinematographs, subject to legislation by the Indian legislature in regard to sanction of films for exhibition.

34. Control of newspapers, books and printing presses ; subject to legislation by the Indian legislature.

35. Coroners.

36. Excluded Areas.

37. Criminal tribes ; subject to legislation by the Indian legislature.

38. European vagrancy ; subject to legislation by the Indian legislature.

39. Prisons, prisoners (except State prisoners) and reformatories; subject to legislation by the Indian legislature.

40. Pounds and prevention of cattle trespass.

41. Treasure trove.

42. Libraries (except the Imperial Library) and museums (except the Indian Museum, the Imperial War Museum and the Victoria Memorial, Calcutta) and Zoological Gardens.

43. Provincial Government Presses.

44. Elections for Indian and provincial legislatures; subject to rules framed under sections 64 (*1*) and 72-A (*4*) of the Act.

45. Regulation of medical and other professional qualifications and standards; subject to legislation by the Indian legislature.

46. Local Fund Audit, that is to say, the audit by Government agency of income and expenditure controlled by local bodies.

47. Control, as defined by rule 10, of members of all-India and provincial services serving within the province; and control, subject to legislation by the Indian legislature, of public services within the province other than all-India services.

48. Sources of provincial revenue, not included under previous heads, whether—

(*a*) taxes included in the schedules to the Scheduled Taxes Rules, or

(*b*) taxes, not included in those schedules, which are imposed by or under provincial legislation which has received the previous sanction of the Governor-General.

49. Borrowing of money on the sole credit of the province, subject to the provisions of the Local Government (Borrowing) Rules.

50. Imposition by legislation of punishments by fine, penalty or imprisonment, for enforcing any law of the province relating to any provincial subject; subject to legislation by the Indian legislature in the case of any subject in respect of which such a limitation is imposed under these rules.

51. Any matter which, though falling within a central subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province.*

52. Matters pertaining to a central subject in respect of which powers have been conferred by or under any law upon a Local Government.

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* NOTE.—The Governor-General in Council has declared that matters relating to expenditure incurred out of public revenues on the tours or the personal staff on the household of the Governor of a province, are for the purposes of the above entry, of a merely local nature within the province concerned. [The effect of this declaration is to make such expenditure expenditure on a provincial subject and since this subject is not a transferred subject, it will be a reserved subject.]

2. The Governor-General in Council has declared that the grant to members of All-India services subordinate to a Local Government of rewards for passing language examinations is for the purpose of the above entry a matter of merely local nature within the province concerned. [The effect of this declaration is to make such expenditure expenditure on a provincial subject. The expenditure on the payment of language rewards to members of other than All-India services falls under entry 47 and is thus, irrespective of the declaration, already a provincial subject.]

SCHEDULE II

(*See Rule* 6)*

LIST OF PROVINCIAL SUBJECTS FOR TRANSFER.

Column I.	Column II.
1. Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act, 1910; subject to legislation by the Indian legislature as regards (*a*) the powers of such authorities to borrow otherwise than from a provincial Government, and (*b*) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.	All Governors' provinces.
2. Medical administration, including hospitals, dispensaries and asylums, and provision for medical education.	Do.
3. Public health and sanitation and vital statistics; subject to legislation by the Indian legislature in respect to infectious and contagious disease to such extent as may be declared by any Act of the Indian legislature.	Do.
4. Pilgrimages within British India	Do.
5. Education, other than European and Anglo-Indian education, provided that— (*a*) the following subjects shall be excluded, namely:— (i) the Benares Hindu University and such other Universities, constituted after the commencement of these rules, as may be declared by the Governor-General in Council to be central subjects, and (ii) Chiefs' Colleges and any institution maintained by the Governor-General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants; and (*b*) the following subjects shall be subject to legislation by the Indian legislature, namely:— (i) the control of the establishment, and the regulation of the constitutions and functions of Universities constituted after the commencement of these rules, and (ii) the definition of the jurisdiction of any University outside the province in which it is situated, and (iii) for a period of five years from the date of the commencement of these rules, the Calcutta University and the control and organization of secondary education in the presidency of Bengal.	Do.
6. Public Works included under the following heads, namely:— (*a*) construction and maintenance of provincial buildings, other than residences of Governors of provinces, used or intended for any purpose in connexion with the administration of the province on behalf of the departments of Government concerned, save in so far as the Governor may assign such work to the departments using or requiring such buildings; and care of historical monuments, with the exception of ancient monuments as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under	All Governors' provinces, except Assam.

NOTE.—Under clause (*a*), item 6, Schedule II of the Devolution Rules issued under section 45-A of the Government of India Act, the Governor has declared that the following works in connexion with provincial buildings shall be assigned to the departments using or requiring such buildings:—

(1) works of petty construction and repair of buildings borne on the Public Works register in cases where such pretty construction and repair are carried out by the department using or requiring the building under the rules in force from time to time and

(2) all works connected with buildings which are not now borne on the Public Works register.

* Page 109 supra.

List of Provincial Subjects for Transfer—cont.

Column I.	Column II.
section 3 (1) of that Act: provided that the Governor-General in Council may, by notification in the *Gazette of India*, remove any such monument from the operation of this exception;	
(*b*) roads, bridges, ferries, tunnels, ropeways, and causeways, and other means of communication, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor-General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor-General in Council may prescribe;	
(*c*) tramways within municipal areas; and	
(*d*) light and feeder railways and extra-municipal tramways, in so far as provision for their construction and management is made by provincial legislation, subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connexion with a main line or is built on the same gauge as an adjacent main line.	
7. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases; subject to legislation by the Indian legislature in respect to destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian legislature.	All Governors' provinces.
8. Civil Veterinary department, including provision for veterinary training, improvement of stock, and prevention of animal diseases; subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature.	Do.
9. Fisheries	All Governors' provinces, except Assam.
10. Co-operative Societies	All Governors' provinces.
11. Forests, including preservation of game therein; subject to legislation by the Indian legislature as regards disforestation of reserved forests.	Bombay.
12. Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	All Governors' provinces, except Assam.
13. Registration of deeds and documents; subject to legislation by the Indian legislature	All Governors' provinces.
14. Registration of births, deaths and marriages; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine.	Do.
15. Religious and charitable endowments	Do.
16. Development of industries, including industrial research and technical education.	Do.
17. Stores and stationery required for transferred departments, subject, in the case of imported stores and stationery, to such rules as may be prescribed by the Secretary of State in Council.	Do.
18. Adulteration of foodstuffs and other articles; subject to legislation by the Indian legislature as regards import and export trade.	Do.
19. Weights and measures; subject to legislation by the Indian legislature as regards standards.	Do.
20. Libraries (other than the Imperial Library), Museums (except the Indian Museum, the Imperial War Museum, and the Victoria Memorial, Calcutta) and Zoological Gardens.	Do.

SCHEDULE III *

(*See rule* 27) †

RULES RELATING TO TRANSFERRED SUBJECTS

1. The previous sanction of the Secretary of State in Council is necessary

(1) to the creation of any new or the abolition of any existing permanent post, or to the increase or reduction of the pay attached to any permanent post, if the post in either case is one which would ordinarily be held by a member of an all-India service, or to the increase or reduction of the cadre of an all-India service;

(2) to the creation of a permanent post on a maximum rate of pay exceeding Rs. 1,200 a month, or the increase of the maximum pay of a sanctioned permanent post to an amount exceeding Rs. 1,200 a month;

(3) to the creation of a temporary post with pay exceeding Rs. 4,000 a month, or to the extension beyond a period of two years of a temporary post with pay exceeding Rs. 1,200 a month;

(4) to the grant to any officer of an allowance, pension or gratuity which is not admissible under rules made or for the time being in force under section 96B of the Act;

(5) to any expenditure on the purchase of imported stores or stationery otherwise than in accordance with such rules as may be made in this behalf by the Secretary of State in Council.

2. (1) Every application for the sanction of the Secretary of State in Council required by paragraph 1 shall be addressed to the Governor-General in Council, who shall, save as hereinafter provided, forward the same with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the local Government, to the Secretary of State in Council.

(2) If the application relates to—

(*a*) the grant in an individual case of any increase of pay; or

(*b*) the creation of a temporary post,

the Governor-General in Council may, at his discretion, on behalf of the Secretary of State in Council, sanction the proposal, or may, and if he dissents from the proposal, shall, forward the application with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the local Government, for the orders of the Secretary of State in Council.

SCHEDULE IV

(*See rule* 29) †

1. The local Governments mentioned below shall, save as hereinafter provided, make in every year provision in their budgets for expenditure upon relief of, and insurance against, famine of such

* Came into force on 1st April 1921.

† Page 115 supra.

amounts respectively (hereinafter referred to as the annual assignments) as are stated against each :—

	RS.
Madras	6,61,000
Bombay	63,60,000
Bengal	2,00,000
United Provinces	39,60,000
Punjab	3,81,000
Burma	67,000
Bihar and Orissa	11,62,000
Central Provinces	47,26,000
Assam	10,000

2. The provision shall be made in the shape of a demand for a grant, and the estimates shall show, under the major heads concerned, the method in which it is proposed to utilize the grant.

3. The grant shall not be expended save upon the relief of famine or upon the construction of protective irrigation works or other works for the prevention of famine. Any portion of the grant which is not so spent shall be transferred to the famine insurance fund of the province.

4. The famine insurance fund shall consist of the unexpended balances of the annual assignments for each year, transferred to the fund under paragraph 3 of this schedule, together with any interest which may accrue on these balances.

5. The local Government may, in any year when the accumulated total of the famine insurance fund of the province is not less than six times the amount of the annual assignment, suspend temporarily the provision of the annual assignment.

6. The famine insurance fund shall form part of the general balances of the Governor-General in Council, who shall pay at the end of each year interest on the average of the balances held in the fund on the last day of each quarter. The interest shall be calculated at the average rate at which the Governor-General in Council has during the year borrowed money by the issue of treasury bills. Such interest shall be credited to the fund.

7. The local Government may at any time expend the balance at its credit in the famine insurance fund for any of the purposes specified in paragraph 3 of this schedule.

8. Such balances may further be utilized in the grant of loans to cultivators, either under the Agriculturists' Loans Act, 1884, or for relief purposes. When such loans have been granted, payments of interest on loans and repayments of principal shall be credited to the fund as they occur and irrecoverable loans written off shall form a final charge against the fund.

9. In case of doubt whether the purpose for which it is proposed to spend any portion of the annual assignment or the famine insurance fund is one of the purposes specified in paragraph 3 of this schedule, the decision of the Governor shall be final.

10. The annual accounts of the annual assignments and of the fund shall be maintained in forms to be prescribed in this behalf by the Auditor-General.

TRANSFERRED SUBJECTS (TEMPORARY ADMINISTRATION) RULES

RULES UNDER SECTION 52 (3) OF THE GOVERNMENT OF INDIA ACT *

Short Title and Commencement

1.—(1) These rules may be called the Transferred Subjects (Temporary Administration) Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.†

Vacancy in office of minister

2. In cases of emergency where, owing to a vacancy, there is no minister in charge of a transferred subject, the Governor

(1) shall, if another minister is available and willing to take charge of the subject, appoint such minister to administer the subject temporarily; or

(2) may, if the vacancy cannot be provided for in the manner aforesaid, himself temporarily administer the subject, and while so doing shall exercise in relation to such subject all such powers in addition to his own powers, as Governor, as he could exercise if he were the minister in charge thereof.

Certification of necessity

3. In any case in which the Governor himself undertakes temporarily to administer a subject under these rules, he shall certify that an emergency has arisen in which, owing to a ministerial vacancy, it is necessary for him so to do, and shall forthwith forward a copy of such certificate for the information of the Governor-General in Council.

Administration to be temporary

4. Such temporary administration by the Governor shall only continue until a minister has been appointed to administer the subject.

Certification of legislation

5 The Governor shall not exercise in respect of such subject the powers conferred on him by section 72 E of the Government of India Act.

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* Government of India Notification No. 310-S, dated 16th December 1920.

† These rules were brought into force with effect from 17th December 1920—vide Government of India Notification (Reforms), No. 316-S, dated 17th December 1920.

BACKWARD TRACTS

RULES UNDER SECTION 52 A OF THE GOVERNMENT OF INDIA ACT *

In exercise of the powers conferred by sub-section (2) of section 52-A of the Government of India Act, the Governor-General in Council is pleased to declare the territories in the presidency of Madras which are specified in the first column of the Schedule hereto annexed to be "backward tracts", and is further pleased, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to each of the said territories shall be subject to the exceptions and modifications specified in the corresponding entries in the second column of the said Schedule.

Further, in exercise of the like powers, the Governor-General in Council is pleased to authorize the Governor of Madras in Council to direct that any Act of the local legislature of Madras shall not apply to the said territories or any part thereof, or shall apply thereto subject to such exceptions or modifications as the Governor may think fit.

SCHEDULE

Territories	Exceptions and modifications
1. The Laccadive Islands including Minicoy.	1. The provisions of the Government of India Act which confer powers on the Indian legislature and on the local legislature of Madras to make laws, respectively, for British India and for the presidency of Madras shall not apply to these territories. 2. The provisions of the said Act which require proposals for expenditure by the Governor-General in Council and by the local Government of Madras to be submitted to the vote of the Legislative Assembly and the legislative council of the Governor of Madras, respectively, shall not apply to proposals for expenditure in these territories. 3 In lieu of the provisions of the said Act which enable rules to be made for prohibiting or regulating in either chamber of the Indian legislature the asking of questions on, and the discussion of, any subject specified in the rules, there shall be substituted a provision prohibiting the asking of questions on, and the discussion of, any subject relating to these territories; and the provisions of the said Act which enable rules to be made for prohibiting or regulating in local legislative councils the asking of questions on, and the discussion of, any subject specified in the rules shall be construed as if they prohibited the asking of questions on, and the discussion of, any subject relating to these territories in the legislative council of the Governor of Madras save with the sanction of the Governor. 4. Section 46 (1) of the said Act shall be construed, in its application to these territories as if the words "in relation to reserved subjects" and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with Ministers appointed under this Act" were omitted.

* Notification of the Government of India, Reforms Office, No. 1-G., dated Delhi, the 3rd January 1921.

Territories	Exceptions and modifications
2. The Agency Division of the Madras Presidency.	1. The provisions of the said Act which confer powers on the Indian legislature and on the local legislature of Madras to make laws, respectively, for British India and for the presidency of Madras shall be construed as requiring those legislatures, when making laws solely applicable to this territory or any part thereof, to insert in every law so made a provision that such law shall come into operation only on such date and subject to such exceptions and modifications, if any, as the Governor-General in Council or the Governor in Council, by notification in the Gazette of India or the local official gazette, as the case may be, may direct. 2. Section 46 (1) of the said Act shall be construed, in its application to this territory as if the words "in relation to reserved subjects" and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with Ministers appointed under this Act" were omitted

MADRAS ELECTORAL RULES

*Rules under section 72-A (4) of the Government of India Act for the election and nomination of members to the Madras Legislative Council, for the qualification of electors and members, the constitution of constituencies and the final decision of doubts and disputes as to the validity of elections.

Short title and commencement

1. (1) These rules may be called the Madras Electoral Rules.

(2) They shall come into force at once.

Definitions

2. In these rules, unless there is anything repugnant in the subject or context,—

(*a*) "the Act" means the Government of India Act;

(*b*) "Commissioners" means Commissioners appointed for the purpose of holding an election inquiry under these rules;

(*c*) "corrupt practice" means any act deemed to be a corrupt practice under the provisions of Schedule IV;

(*d*) "election agent" means the person appointed under these rules by a candidate as his agent for an election;

(*e*) "Gazette" means the Fort St. George Gazette; and

(*f*) "Schedule" means a Schedule to these rules.

PART I

Composition of Council and Constituencies

Composition of Legislative Council

3. The Legislative Council of the Governor of Madras shall consist of—

(1) the members of the Executive Council *ex-officio*;

(2) ninety-eight elected members; and

(3) such number of members nominated by the Governor as, with the addition of the members of the Executive Council, shall amount to twenty-nine; of the members so nominated—

(*a*) not more than nineteen may be officials, and

(*b*) six shall be persons nominated as follows, namely:—

(i) five to represent the following communities, namely, the Paraiyans, Pallans, Valluvans, Malas, Madigas, Chakkiliyans, Tottiyans, Cherumans and Holeyas, and

(ii) one to represent the inhabitants of backward tracts.

For the purpose of selecting persons to be nominated under sub-clause (*b*) of clause (3) of this rule the Governor may at his discretion make regulations providing for their selection by the communities concerned.

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* Government of India notification (Reforms), No. 767-F., dated 27th July 1920.

4. The elected members shall be elected by the constituencies specified in Schedule I, and the number of members to be elected by each constituency, and the number, if any, of seats reserved for non-Brahman members (hereinafter in these rules referred to as reserved seats) shall, subject to the provisions of that Schedule, be as stated therein against that constituency. Constituencies

PART II

Qualifications of Elected Members

5. (1) A person shall not be eligible for election as a member of the Council if such person— General disqualifications for being elected

(*a*) is not a British subject; or

(*b*) is a female; or

(*c*) is already a member of the Council or of any other legislative body constituted under the Act; or

(*d*) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court; or

(*e*) has been adjudged by a competent court to be of unsound mind; or

(*f*) is under 25 years of age; or

(*g*) is an undischarged insolvent; or

(*h*) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part:

Provided that the local Government may direct that, subject to such conditions as it may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be ineligible for election by reason only of not being a British subject or British subjects:

Provided further that the disqualification mentioned in clause (*d*) may be removed by an order of the local Government in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of the expiration of the sentence.

(3) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding elections to a legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule IV, such person shall not be eligible for election for five years from the date of such conviction or of the finding of the Commissioners, as the case may be; and a person reported by any such

Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) If any person has been a candidate or an election agent at an election to any legislative body constituted under the Act and has failed to lodge any prescribed return of election expenses or has lodged a return which is found, either by Commissioners holding an inquiry into the election or by a Magistrate in a judicial proceeding, to be false in any material particular, such person shall not be eligible for election for five years from the date of such election:

Provided that any disqualification mentioned in sub-rule (3) or sub-rule (4) of this rule may be removed by an order of the local Government in that behalf.

Special qualifications for election in case of certain constituencies

6. (1) (*a*) No person shall be eligible for election as a member of the Council to represent a general constituency unless his name is registered on the electoral roll of the constituency or of any other constituency in the province; and unless in the case of a non-Muhammadan, Muhammadan, Indian Christian, European or Anglo-Indian constituency he is himself a non-Muhammadan, Muhammadan, Indian Christian, European or Anglo-Indian, as the case may be.

(*b*) No person shall be eligible for election as a member of the Council to represent a special constituency unless his name is registered on the electoral roll of the constituency.

(2) For the purposes of these rules—

(*a*) "general constituency" means a non-Muhammadan, Muhammadan, Indian Christian, European or Anglo-Indian constituency; and

(*b*) "special constituency" means a Landholders', University, Planters', or Commerce and Industry constituency.

PART III

The Electoral Roll

General conditions of registration and disqualifications

7. (1) Every person shall be entitled to have his name registered on the electoral roll of a constituency who has the qualifications prescribed for an elector of that constituency and who is not subject to any of the disqualifications hereinafter set out, namely:—

(*a*) is not a British subject; or

(*b*) is a female; or

(*c*) has been adjudged by a competent court to be of unsound mind; or

(*d*) is under 21 years of age:

Provided that the local Government may direct that, subject to such conditions as it may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be disqualified for registration by reason only of not being a British subject or British subjects:

Provided further that, if a resolution is passed by the Council after not less than one month's notice has been given of an intention to move such a resolution recommending that the sex disqualification for registration should be removed either women generally or in respect of

any class of women, the Local Government shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex:

Provided further that no person shall be entitled to have his name registered on the electoral roll of more than one general constituency.

Note.—In exercise of the powers conferred by the proviso to Rule 7 (1), the Government of Madras has made the following regulation:—

1. This regulation may be called "The Madras Electoral Sex Disqualification Regulation."

2. No woman shall be disqualified by reason only of her sex for registration on the electoral roll of any constituency of the Legislative Council of Madras.

(2) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding elections to a legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule IV, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of five years from the date of the conviction or the report, as the case may be, or, if not on the electoral roll, shall not be so registered for a like period; and if any person is reported by any such Commissioners as guilty of any other corrupt practice, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of the report or, if not on the electoral roll, shall not be so registered for a like period:

Provided that the Local Government may direct that the name of any person to whom this sub-rule applies shall be registered on the electoral roll.

8. (1) The qualifications of an elector for a general constituency shall be such qualifications based on— Qualifications of electors

(i) community,
(ii) residence, and
(iii) (*a*) occupation of a house, or
(*b*) assessment to property tax, tax on companies or profession-tax, or
(*c*) assessment to income-tax, or
(*d*) military service, or
(*e*) the holding of land,

as are specified in Schedule II to these rules in the case of that constituency.

(2) The qualifications of an elector for a special constituency shall be the qualifications specified in Schedule II to these rules in the case of that constituency.

9. (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice specifying the mode in which and the time within which any person whose name is not entered in the roll and who claims to have it inserted therein, or any person whose name is on the roll and who objects to the inclusion of his own name or of the name of any other person on the roll, may prefer a claim or objection to the Revising Authority. Electoral roll

(2) Subject to the provisions of these rules, the Local Government shall make regulations providing for—

(1) the authority by whom the electoral roll shall be prepared and the particulars to be contained in the roll;

(2) the time at which the roll shall be prepared;

(3) the publication of the roll in such manner and in such language as to give it wide publicity in the constituency to which it relates;

(4) the mode in which and the time within which claims and objections may be preferred;

(5) the constitution and appointment of Revising Authorities to dispose of claims and objections;

(6) the manner in which notices of claims or objections shall be published; and

(7) the place, date, and time at which and the manner in which claims or objections shall be heard;

and may make such regulations to provide for other matters incidental or ancillary to the preparation and revision of the roll as it may consider desirable. Such regulations may be made as to rolls generally or any class of rolls or any particular roll.

(3) The orders made by the Revising Authority shall be final, and the electoral roll shall be amended in accordance therewith and shall, as so amended, be republished in such manner as the Local Government may prescribe.

(4) The electoral roll shall come into force from the date of such republication, and shall continue in force for a period of three years or for such less period as the Local Government may by regulation prescribe, and after the expiration of such period a fresh roll shall be prepared in accordance with these rules.

(5) If a constituency is called upon to elect a member or members after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall for the purposes of that election continue to operate as the electoral roll for the constituency.

Right to vote

10. Every person registered on the electoral roll for the time being in force for any constituency shall while so registered be entitled to vote at an election of a member or members for that constituency: provided that no person shall vote in more than one general constituency.

PART IV

ELECTIONS

Nomination of candidates

11. (1) Any person may be nominated as a candidate for election in any constituency for which he is eligible for election under these rules.

(2) On or before the date on which a candidate is nominated the candidate shall make in writing and sign a declaration appointing either himself or some other person, who is not disqualified under these rules for the appointment, to be his election agent, and no candidate shall be deemed to be duly nominated unless such declaration has been made.

(3) A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

12. (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature before such time as the Local Government may fix in this behalf exceeds that of the vacancies, a poll shall be taken: **Procedure at election**

Provided that, if any seat is reserved and the number among such candidates of non-Brahmans is equal to the number of the reserved seats, the non-Brahman candidate or candidates, as the case may be, shall be declared to be elected, and a poll shall only be taken if any vacancy thereafter remains to be filled.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

(3) If the number of such candidates is less than the number of vacancies, all such candidates shall be declared to be elected, and the Governor shall, by a notification in the Gazette, call for fresh nominations for the remaining vacancy or vacancies, and if any such are received shall call upon the constituency to elect a member or members, as the case may be.

(4) Votes shall be given by ballot and in general and Landholders' constituencies in person. No votes shall be received by proxy.

(5) In plural-member constituencies every elector shall have as many votes as there are members to be elected: provided that no elector shall give more than one vote to any one candidate.

(6) Votes shall be counted by, or under the supervision of, the Returning officer, and any candidate, or, in the absence of the candidate, a representative duly authorized by him in writing, shall have a right to be present at the time of counting.

(7) When the counting of the votes has been completed, the Returning officer shall forthwith declare the candidate or candidates, as the case may be, to whom the largest number of votes has been given to be elected:

Provided that, if one or more seats are reserved, the Returning officer shall first declare to be elected the non-Brahman candidate or candidates, as the case may be, to whom the largest number of votes has been given.

(8) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning officer and in such manner as he may determine.

(9) The Returning officer shall without delay report the result of the election to the Secretary to the Council, and the name or names of the candidate or candidates elected shall be published in the Gazette.

13. (1) Subject to the provisions of these rules, the Local Government shall make regulations providing— **Government to make regulations regarding the conduct of elections**

(1) for the form and manner in, and the conditions on, which nominations may be made, and for the scrutiny of nominations;

(2) for the appointment of a Returning officer for each constituency and for his powers and duties;

(3) in the case of general and Landholders' constituencies, or the division of the constituencies into polling areas in such manner as to give all electors such reasonable facilities for voting as are practicable in the circumstances, and for the appointment of polling stations for these areas;

(4) for the appointment of officers to preside at polling tations, and for the duties of such officers;

(5) for the checking of voters by reference to the electoral roll;

(6) for the manner in which votes are to be given, and in particular for the case of illiterate voter or voters under physical or other disability;

(7) for the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors;

(8) for the scrutiny of votes;

(9) for the safe custody of ballot papers and other election papers, for the period for which such papers shall be preserved, and for the inspection and production of such papers;

and may make such other regulations regarding the conduct of elections as it thinks fit.

(2) Notwithstanding anything in these rules, if a resolution in favour of the introduction of proportional representation is passed by the Council after not less than one month's notice has been given of an intention to move such a resolution, the Local Government may for any plural-member constituencies introduce the method of election by means of the single transferable vote, and may make all necessary regulations for the purpose and to that end may group together single-member constituencies so as to make new plural-member constituencies.

(3) In the exercise of the foregoing power regulations may be made as to elections generally or any class of elections or in regard to constituencies generally or any class of constituency or any particular constituency.

Multiple elections

14. (1) If any person is elected by a constituency of the Council and by a constituency of either chamber of the Indian legislature, the election of such person to the Council shall be void and the Governor shall call upon the constituency concerned to elect another person.

(2) If any person is elected either by more than one constituency of the Council or by a constituency of the Council and a constituency of the Legislative Council of another province, he shall, by notice in writing signed by him and delivered to the Secretary to the Council or the Secretaries to both Councils, as the case may be, within seven days from the date of the publication of the result of such election in the local official Gazette, choose for which of these constituencies he shall serve, and the choice shall be conclusive.

(3) When any such choice has been made, the Governor shall call upon the constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(4) If the candidate does not make the choice referred to in sub-rule (2) of this rule, the elections of such person shall be void and the Governor shall call upon the constituency or constituencies concerned to elect another person or persons.

Election agents and return of expenses

Disqualification for being election agent

15. No person shall be appointed an election agent who is himself ineligible for election as being subject to any disqualification mentioned in sub-rule (3) or sub-rule (4) of rule 5.

Revocation of appointment of election agent

16. (1) The appointment of an election agent, whether the election agent appointed be the candidate himself or not, may only be revoked in a writing signed by the candidate and lodged with the officer receiving nominations and shall operate from the date on which it is so lodged.

(2) In the event of such a revocation or of the death of any election agent, whether such event occurs before, during or after the election, then the candidate shall appoint forthwith another election agent and declare his name in writing to the said officer.

Return of election expenses

17. (1) Within one month or such longer period as the Governor may allow after the date of the declaration of the election every candidate, either personally or through his election agent, shall cause to be lodged with the Returning officer a return of his election expenses containing the particulars specified in Schedule III.

(2) Every such return shall contain a statement of all payments made by the candidate or by his election agent or by any persons on behalf of the candidate or in his interest for expenses incurred on account of, or in respect of, the conduct and management of the election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

(3) The return shall be accompanied by declarations by the candidate and his election agent which shall be in the form contained in Schedule III and shall be made on oath or affirmation before a Magistrate.

(4) The Local Government shall cause to be prepared in such manner, and maintained for such time, as it may direct, a record showing the names of all candidates at every election under these rules and the date on which the return of election expenses of each candidate has been lodged with the Returning officer.

Note.—In pursuance of the provisions of sub-rule (4) of rule 17 of the Legislative Council Electoral Rules which requires the preparation and maintenance of a record showing the names of all candidates at every election under the rules and the date on which the return of election expenses of every candidate has been lodged with the Returning officer, the Governor in Council has directed as follows regarding the manner of preparation of the record and the time during which it is to be maintained:—(1) the record referred to in the aforesaid rule shall be prepared and maintained by the Secretary to the Government in the Law (Legislative) Department; (2) the record shall be open to inspection by the public; (3) the record shall contain in addition to the matters specified in sub-rule (4) of rule 17 the following particulars viz., (i) the date of each election and (ii) the name of each constituency in which an election has been held; (4) the record of each election shall be maintained for six years from the date of the election and (5) separate records shall be maintained for general elections and by-elections.

2. Returning officers for constituencies of the Legislative Council should supply the Secretary to Government, Law (Legislative) Department, returns containing the necessary material for the preparation of the record.

Fixation of maximum election expenses

18. (1) The Governor-General in Council may, by notification in the Gazette,—

(*a*) fix maximum scales of election expenses, which shall be applicable to any election held after the first elections under these rules; and

(*b*) prescribe the numbers and descriptions of persons who may be employed for payment in connexion with any election held under these rules.

(2) Any notification issued under this rule may make different provisions for different constituencies.

Accounts of agents

19. Every election agent shall keep regular books of account in which the particulars of all expenditure of the nature referred to in rule 17 shall be entered, whether such expenditure is incurred by the candidate or by the election agent or by any person under the direction of the candidate or the election agent.

PART V

Nominated Members

General disqualifications for nomination

20. (1) No person shall be nominated to the Council who—

(*a*) is not a British subject; or

(*b*) is a female; or

(*c*) is already a member of the Council or of any other legislative body constituted under the Act; or

(*d*) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court; or

(*e*) has been adjudged by a competent court to be of unsound mind; or

(*f*) is under 25 years of age; or

(*g*) is an undischarged insolvent; or

(*h*) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part.

Provided that the Local Government may direct that, subject to such conditions as it may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be disqualified for nomination by reason only of not being a British subject or British subjects:

Provided further that the disqualification mentioned in clause (*d*) may be removed by an order of the Local Government in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for nomination for five years from the date of the expiration of the sentence.

(3) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding

elections to a legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I, or in paragraphs 1, 2 or 3 of Part II, of Schedule IV, such person shall not be eligible for nomination for five years from the date of such conviction or of the finding of the Commissioners as the case may be; and a person reported by any such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) If any person has been a candidate or an election agent at an election to any legislative body constituted under the Act and has failed to lodge any prescribed return of election expenses or has lodged a return which is found, either by Commissioners holding an inquiry into the election or by a Magistrate in a judicial proceeding, to be false in any material particular, such person shall not be eligible for nomination for five years from the date of the election:

Provided that any disqualification mentioned in sub-rule (3) or sub-rule (4) of this rule may be removed by an order of the Local Government in that behalf.

Term of office of nominated member

21. (1) A nominated non-official member shall hold office for the duration of the Council to which he is nominated.

(2) Official members shall hold office for the duration of the Council to which they are nominated or for such shorter period as the Governor may, at the time of nomination, determine.

PART VI

General Provisions

Obligation to take oath

Taking of oath

22. Every person who is elected or nominated to be a member of the Council shall before taking his seat make, at a meeting of the Council, an oath or affirmation of his allegiance to the Crown in the following form, namely:—

I, A.B., having been $\frac{\text{elected}}{\text{nominated}}$ a member of this Council, do solemnly swear (*or* affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

Vacation of seat

Effect of subsequent disabilities, failure to take oath

23. (1) If any person having been elected or nominated subsequently becomes subject to any of the disabilities stated in clauses (*a*), (*d*), (*e*), (*g*) and (*h*) of sub-rule (1) or in sub-rules (2), (3) and (4) of rule 5 or of rule 20, as the case may be, or fails to make the oath or affirmation prescribed by rule 22 within such time as the Governor considers reasonable, the Governor shall, by notification in the Gazette, declare his seat to be vacant.

(2) When any such declaration is made, the Governor shall, by notification as aforesaid, call upon the constituency concerned to elect another person within such time as may be prescribed by the notification, or shall nominate another person, as the case may be.

Casual vacancies

24. (1) When a vacancy occurs in the case of an elected member by reason of his election being declared void, or by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, the Governor shall, by notification in the Gazette, call upon the constituency concerned to elect a person for the purpose of filling the vacancy within such time as may be prescribed by such notification.

(2) If a vacancy occurs in the case of a nominated member, the Governor shall nominate to the vacancy a person having the necessary qualification under these rules.

First constitution of the Council

Constitution of Council

25. (1) As soon as conveniently may be after these rules come into force, a Council shall be constituted in accordance with their provisions.

(2) For this purpose the Governor shall, by notification in the Gazette, call upon the constituencies referred to in rule 4 to elect members in accordance with these rules within such time as may be prescribed by such notification, and shall make such nominations as may be necessary to complete the Council before the date fixed for its first meeting.

(3) If any difficulty arises as to the preparation or publication of the first electoral roll or the holding of the first elections after the commencement of these rules, the Local Government may by order do any matter or thing which appears to it necessary for the proper preparation or publication of the roll or for the proper holding of the elections.

General Elections

Reconstitution of Council

26. (1) On the expiration of the duration of a Council or on its dissolution, a general election shall be held in order that a new Council may be constituted.

(2) On such expiration or dissolution, the Governor shall, by notification in the Gazette, call upon the constituencies referred to in rule 4 to elect members in accordance with these rules within such time after the date of expiration or dissolution as may be prescribed by such notification:

Provided that, if the Governor thinks fit, such notification may be issued at any time not being more than three months prior to the date on which the duration of the Council would expire in the ordinary course of events.

(3) Before the day fixed for the first meeting of the Council the Governor shall make such nominations as may be necessary to complete the Council.

Publication of result of general election

27. As soon as may be after the expiration of the time fixed for the election of members at any general election, the names of the members elected for the various constituencies at such election shall be notified in the Gazette.

PART VII

THE FINAL DECISION OF DOUBTS AND DISPUTES AS TO THE VALIDITY OF AN ELECTION

28. In this Part and in Schedule IV, unless there is anything repugnant in the subject or context,— Definitions

(*a*) "agent" includes an election agent and any person who is held by Commissioners to have acted as an agent in connexion with an election with the knowledge or consent of the candidate;

(*b*) "candidate" means a person who has been nominated as a candidate at any election or who claims that he has been so nominated or that his nomination has been improperly refused, and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate at such election, provided that he is subsequently nominated as a candidate at such election; and

(*c*) "returned candidate" means a candidate whose name has been published under these rules as duly elected.

29. No election shall be called in question except by an election petition presented in accordance with the provisions of this Part. The election petition

30. An election petition may be presented to the Governor by any candidate or elector against any returned candidate within fourteen days from the date on which the result of the election has been published in accordance with sub-rule (9) of rule 12. Presentation of the petition

31. The petition shall contain a statement in concise form of the material facts on which the petitioner relies and the particulars of any corrupt practice which he alleges and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure, 1908. Contents of the petition

32. The petitioner may, if he so desires, in addition to calling in question the election of the returned candidate, claim a declaration that he himself or any other candidate has been duly elected; in which case he shall join as respondents to his petition all other candidates who were nominated at the election. Against whom it may be presented

33. At the time of presentation of the petition, the petitioner shall deposit with it the sum of one thousand rupees in cash or in Government Promissory Notes of equal value at the market rate of the day as security for the costs of the same. Deposit of security

34. (1) If the provisions of rule 33 are not complied with, the Governor shall dismiss the petition. Dismissal for default

(2) Upon compliance with the provisions of rule 33— Appointment of Commissioners

(*a*) the Governor shall appoint as Commissioners for the trial of the petition three persons who are or have been, or are eligible to be appointed, Judges of a High Court

within the meaning of section 101 (3) of the Act, and shall appoint one of them to be the President, and thereafter all applications and proceedings in connexion therewith shall be dealt with and held by such Commissioners;

(b) the President of the Commission so constituted shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the Gazette, and may call on the petitioner to execute a bond in such amount and with such sureties as he may require for the payment of any further costs. At any time within fourteen days after such publication, any other candidate shall be entitled to be joined as a respondent on giving security in a like amount and procuring the execution of a like bond.

(3) When in respect of an election in a constituency more petitions than one are presented, the Governor shall refer all such petitions to the same Commissioners, who may at their discretion inquire into the petitions either in one or in more proceedings as they shall think fit.

Inquiry by Commissioners

35. Every election petition shall be inquired into by the Commissioners, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits: provided that it shall only be necessary for the Commissioners to make a memorandum of the substance of the evidence of any witness examined by them.

Place of inquiry

36. The inquiry shall be held at such place as the Governor may appoint: provided that the Commissioners may in their discretion sit at any other place in the Presidency for any part of the inquiry, and may depute any one of their number to take evidence at any place in the Presidency.

Withdrawal of petition

37. (1) No election petition shall be withdrawn without the leave of the Commissioners.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

(3) When an application for withdrawal is made, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Gazette.

(4) No application for withdrawal shall be granted if the Commissioners are of opinion that such application has been induced by any bargain or consideration which the Commissioners consider ought not to be allowed.

(5) If the application is granted—

(a) the petitioner shall be ordered to pay the costs of the respondent theretofore incurred or such portion thereof as the Commissioners may think fit;

(b) such withdrawal shall be reported to the Governor, who shall publish notice thereof in the Gazette; and

(c) any person who might himself have been a petitioner may, within seven days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and, upon compliance with the conditions of rule 33 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

38. (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners. Abatement or substitution on death of petitioner

(2) Such abatement shall be reported to the Governor, who shall publish notice thereof in the Gazette.

(3) Any person who might himself have been a petitioner may, within seven days of such publication, apply to be substituted as petitioner, and, upon compliance with the conditions of rule 33 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

39. If before the conclusion of the trial of an election petition the respondent dies or gives notice that he does not intend to oppose the petition, the Commissioners shall cause notice of such event to be published in the Gazette, and thereupon any person who might have been a petitioner may, within seven days of such publication, apply to be substituted for such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Commissioners may think fit. Abatement or substitution on death of respondent

40. Where at an inquiry into an election petition any candidate, other than the returned candidate, claims the seat for himself, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been returned candidate and a petition had been presented complaining of his election. Recrimination when seat claimed

41. When at an inquiry into an election petition the Commissioners so order, the Advocate-General or some person acting under his instructions shall attend and take such part therein as they may direct. Attendance of Law Officer

42. (1) Save as hereinafter provided in this rule, if in the opinion of the Commissioners— Grounds for declaring election void

(a) the election of a returned candidate has been procured or induced or the result of the election has been materially affected, by a corrupt practice, or

(b) any corrupt practice specified in Part I of Schedule IV has been committed, or

(c) the result of the election has been materially affected by any irregularity in respect of a nomination paper, or by the improper reception or refusal of a vote, or by any non-compliance with the provisions of the Act or the rules or regulations made thereunder, or by any mistake in the use of any form annexed thereto,

the election of the returned candidate shall be void.

(2) If the Commissioners report that a returned candidate has been guilty by an agent (other than his election agent) of any corrupt practice specified in Part I of Schedule IV which does not amount to

any form of bribery other than treating as hereinaftar explained or to the procuring or abetment of personation, and if the Commissioners further report that the candidate has satisfied them that—

(a) no corrupt practice was committed at such election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent and

(b) such candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at such election, and

(c) the corrupt practices mentioned in the said report were of a trivial, unimportant and limited character, and

(d) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,

then the Commissioners may find that the election of such candidate is not void.

Explanation.—For the purposes of this sub-rule "treating" means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

Report of Commissioners and procedure thereon

43. (1) At the conclusion of the inquiry, the Commissioners shall report whether the returned candidate or any other party to the petition who has under the provisions of these rules claimed the seat has been duly elected, and in so reporting shall have regard to the provisions of rule 42.

(2) The report shall be in writing and shall be signed by all the Commissioners. The Commissioners shall forthwith forward their report to the Governor who, on receipt thereof, shall issue orders in accordance with the report and publish the report in the Gazette, and the orders of the Governor shall be final.

Form of reports

44. If either in their report or upon any other matter there is a difference of opinion among the Commissioners, the opinion of the majority shall prevail, and their report shall be expressed in the terms of the views of the majority.

Findings as to corrupt practices and persons guilty thereof

45. Where any charge is made in an election petition of any corrupt practice, the Commissioners shall record in their report—

(a) a finding whether a corrupt practice has or has not been proved to have been committed by any candidate or his agent, or with the connivance of any candidate or his agent, and the nature of such corrupt practice, and

(b) the names of all persons (if any) who have been proved at the inquiry to have been guilty of any corrupt practice and the nature of such corrupt practice with any such recommendations as they may desire to make for the exemption of any such persons from any disqualifications they may have incurred in this connexion under these rules.

PART VIII

SPECIAL PROVISION

46. If any question arises as to the interpretation of these rules otherwise than in connexion with an election inquiry held thereunder, the question shall be referred for the decision of the Governor, and his decision shall be final. **Interpretation in case of doubt**

SCHEDULE I

(See rule 4) *

I. List of Constituencies

Name of constituency.	Class of constituency.	Extent of constituency.	Number of members.	Reserved seats.
Madras City ..	Non-Muhammadan Urban.	The City of Madras as defined in section 3 (*9*) of the Madras City Municipal Act, 1919, but including Fort St. George.	4	2
Madura City ..	Do.	The Municipality of Madura.	1	..
Trichinopoly *cum* Srirangam.	Do.	The Municipalities of Trichinopoly and Srirangam.	1	..
Cocanada City ..	Do.	The Municipality of Cocanada.	1	..
Vizagapatam City.	Do.	The Municipality of Vizagapatam.	1	..
Tinnevelly *cum* Palamcottah.	Do.	The Municipalities of Tinnevelly and Palamcottah.	1	1
Anantapur ..	Non-Muhammadan Rural.	The District of Anantapur.	2	1
Arcot (North) ..	Do.	The District of North Arcot.	3	1
Arcot (South) ..	Do.	The District of South Arcot	3	1
Bellary	Do.	The District of Bellary ..	2	1
Chingleput ..	Do.	The District of Chingleput	2	1
Chittoor	Do.	The District of Chittoor.	2	1
Coimbatore ..	Do.	The District of Coimbatore.	3	1
Cuddapah ..	Do.	The District of Cuddapah.	2	1
Ganjam	Do.	The District and Agency of Ganjam.	3	1
Godavari	Do.	The District and Agency of Godavari (excluding the municipality of Cocanada).	2	1
Guntur	Do.	The District of Guntur ..	3	1
Kanara (South) ..	Do.	The District of South Kanara.	2	1
Kistna	Do.	The District of Kistna ..	4	2
Kurnool	Do.	The District of Kurnool ..	2	1
Madura district ..	Do.	The District of Madura excluding the municipality of Madura.	3	1
Malabar *cum* Anjengo.	Do.	The Districts of Malabar and Anjengo.	2	1

* Page 135 supra.

Name of constituency.	Class of constituency.	Extent of constituency.	Number of members.	Reserved seats.
Nellore	Non-Muhammadan Rural.	The District of Nellore ..	2	1
Ramnad	Do.	The District of Ramnad ..	2	1
Salem	Do.	The District of Salem ..	2	1
Tanjore	Do.	The District of Tanjore ..	3	1
Tinnevelly district.	Do.	The District of Tinnevelly excluding the Municipalities of Tinnevelly and Palamcottah.	2	1
Trichinopoly district.	Do	The District of Trichinopoly excluding the Municipalities of Trichinopoly and Srirangam.	2	1
Vizagapatam district.	Do.	The District and Agency of Vizagapatam, excluding the Municipality of Vizagapatam.	2	1
The Nilgiris ..	Do.	The Nilgiris District ..	1	1
Madras City (Muhammadan).	Muhammadan Urban.	The City of Madras as defined in section 3 (9) of the Madras City Municipal Act, 1919, but including Fort St. George.	1	..
Madura and Trichinopoly *cum* Srirangam.	Do.	The municipalities of Madura, Trichinopoly and Srirangam.	1	..
Northern Circars (Muhammadan).	Muhammadan Rural.	The Districts and Agencies of Ganjam, Vizagapatam and Godavari and the District of Kistna.	1	..
East Coast (Muhammadan).	Do.	The Districts of Guntur, Nellore and Chittoor.	1	..
Ceded Districts (Muhammadan).	Do.	The Districts of Cuddapah, Kurnool, Bellary and Anantapur.	1	..
North Arcot *cum* Chingleput.	Do.	The Districts of North Arcot and Chingleput.	1	..
Central Districts (Muhammadan).	Do.	The Districts of Salem, Coimbatore, The Nilgiris and South Arcot.	1	..
Tanjore (Muhammadan).	Do.	The District of Tanjore ..	1	..
Madura *cum* Trichinopoly (Muhammadan Rural).	Do.	The Districts of Madura and Trichinopoly excluding the municipalities of Madura, Trichinopoly and Srirangam.	1	..
Ramnad *cum* Tinnevelly (Muhammadan).	Do.	The Districts of Ramnad and Tinnevelly.	1	..
Malabar *cum* Anjengo (Muhammadan).	Do.	The Districts of Malabar and Anjengo.	2	..
South Kanara ..	Do.	The District of South Kanara.	1	..
Northern Districts (Christian).	Indian Christian.	The Districts and Agencies of Ganjam, Vizagapatam and Godavari, and the Districts of Kistna, Guntur and Nellore.	1	..

Name of constituency.	Class of constituency.	Extent of constituency.	Number of members.	Reserved seats.
Central Districts (Christian).	Indian Christian.	The Districts of Cuddapah, Kurnool, Anantapur, Bellary, Chittoor, Chingleput, Madras, South Arcot and North Arcot.	1	..
West Coast (Christian).	Do.	The Districts of Salem, Coimbatore, The Nilgiris, Malabar, Anjengo and South Kanara.	1	..
Tanjore and Trichinopoly *cum* Madura (Christian).	Do.	The Districts of Tanjore, Trichinopoly and Madura.	1	..
Ramnad *cum* Tinnevelly (Christian).	Do.	The Districts of Ramnad and Tinnevelly	1	..
European	European ..	The Madras Presidency ..	1	..
Anglo-Indian ..	Anglo-Indian.	Do. ..	1	..
Northern Landholders, I.	Landholders ..	The Districts and Agencies of Ganjam and Vizagapatam.	1	..
Northern Landholders, II.	Do.	The District and Agency of Godavari, and the Districts of Kistna and Guntur.	1	..
North Central Landholders.	Do.	The Districts of Chittoor, Cuddapah, Kurnool, Bellary, Anantapur, Nellore, Madras and Chingleput.	1	..
South Central Landholders.	Do.	The Districts of Salem, Coimbatore, North Arcot and South Arcot	1	..
Southern Landholders.	Do.	The Districts of Tanjore, Trichinopoly, Madura, Ramnad and Tinnevelly.	1	..
West Coast Landholders.	Do.	The Districts of Malabar, Anjengo, South Kanara and The Nilgiris.	1	..
Madras University.	University ..	(Non-territorial) ..	1	..
Madras Planters ..	Planting ..	Do. ..	1	..
Madras Chamber of Commerce.	Commerce and Industry.	Do. ..	2	..
Madras Trades Association.	Do.	Do. ..	1	..
Southern India Chamber of Commerce.	Do.	Do. ..	1	..
Nattukkottai Nagarathars' Association.	Do.	Do. ..	1	..

II. Seats shall be deemed to be reserved seats within the meaning of this schedule for the purposes of an election if the number of non-Brahman members already representing the constituency is less than the number of seats specified as reserved seats, to the extent only of that deficiency:

Provided that, if the number of non-Brahman candidates at the date of the election is less than the number of reserved seats, the number of reserved seats shall be reduced to the extent of that deficiency.

SCHEDULE II

(See rule 8)*

QUALIFICATIONS OF ELECTORS

1. For the purposes of this schedule—

(*a*) "an Anglo-Indian" means any person being a British subject and resident in British India,

(i) of European descent in the male line who is not a European, or

(ii) of mixed Asiatic and non-Asiatic descent, whose father, grandfather or more remote ancestor in the male line was born in the Continent of Europe, Canada, Newfoundland, Australia, New Zealand, the Union of South Africa or the United States of America, and who is not a European;

(*b*) "a European" means any person of European descent in the male line being a British subject and resident in British India, who either was born in or has a domicile in the United Kingdom or in any British possession or in any State in India, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile;

(*c*) "member," in relation to a Chamber of Commerce or a planters' or traders' association, includes any person entitled to exercise the rights and privileges of membership on behalf of and in the name of any firm, company or corporation registered as a member;

(*d*) "previous year" means the financial year preceding that in which the electoral roll for the time being under preparation is first published under these rules;

(*e*) "zamindar" means the holder of an estate;

(*f*) "estate" means—

(i) any permanently settled estate or temporarily settled zamindari,

(ii) any portion of such permanently settled estate or temporarily settled zamindari which is separately registered in the office of the Collector,

(iii) any unsettled Palaiyam or Jagir,

(iv) any Inam village of which the grant has been confirmed or recognized by the British Government or any separated part of such village,

(v) any portion consisting of one or more villages of any of the estates specified above in clauses (i), (ii) and (iii) which is held on a permanent under tenure;

(*g*) "landholder" means a person owning an estate or part thereof and includes every person entitled to collect the rents of the whole or any portion of the estate by virtue of any transfer from the owner or his predecessor in title or of any orders of a competent court or of any provision of law;

(*h*) "ryot" means a person who holds for the purpose of agriculture ryoti land in an estate on condition of paying to the landholder the rent which is legally due upon it.

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* Page 137 supra.

2. For the purpose of determining any claim to a qualification under this schedule the entries in the land revenue accounts and *muchilakas* regarding the amounts of assessment, water-rate and rent payable, and the entries in the municipal records regarding the amounts of taxes assessed or paid and the values of houses shall be conclusive evidence of the facts stated therein. **Revenue accounts, etc., to be conclusive evidence.**

GENERAL CONSTITUENCIES

3. Every person not being a European, an Anglo-Indian, an Indian Christian or a Muhammadan shall be qualified as an elector for a non-Muhammadan constituency, who resided in the constituency for not less than 120 days in the previous year, and has the further qualifications hereinafter prescribed for an elector of the particular constituency. **Non-Muhammadan constituencies (Urban and Rural)**

4. A person shall be qualified as an elector for a Madras City constituency who— **Urban—Madras City constituency**

(*a*) was assessed in the previous year to property-tax or tax on companies or profession-tax; or

(*b*) occupied for not less than six months in the previous year a house in the city, not being a house in any military or police lines, of an annual value of not less than Rs. 60; or

(*c*) was assessed in the previous year to income-tax; or

(*d*) is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces.

Explanation.—No person shall be deemed to occupy a house within the meaning of clause (*b*) unless he is paying or is liable to pay to the owner the rent thereof, or is exempt from the payment of rent by virtue of any office, service or employment; nor shall more than one person be qualified as an elector in respect of the same house.

5. A person shall be qualified as an elector for an urban constituency other than a Madras City constituency who— **Urban constituencies other than Madras**

(*a*) was assessed in the previous year to an aggregate amount of not less than Rs. 3 in respect of one or more of the following taxes, namely, property tax, tax on companies, or profession-tax; or

(*b*) holds within the constituency one of the qualifications in respect of the holding of land hereinafter prescribed for an elector of a rural constituency; or

(*c*) was assessed in the previous year to income-tax; or

(*d*) is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces.

6. A person shall be qualified as an elector for a rural constituency who— **Rural constituencies**

(*a*) is registered as a ryotwari pattadar or as an inamdar of land, the annual rent value of which is not less than Rs. 10; or

(*b*) holds on a registered lease under a ryotwari pattadar or an inamdar of land, the annual rent value of which is not less than Rs. 10; or

(*c*) is registered jointly with the proprietor under section 14 of the Malabar Land Registration Act, 1895, as the occupant of land, the annual rent value of which is not less than Rs. 10; or

(*d*) is a landholder holding an estate the annual rent value of which is not less than Rs. 10; or

(*e*) holds as ryot or as tenant under a landholder land, the annual rent value of which is not less than Rs. 10; or

(*f*) was in the previous year assessed in a municipality included in the constituency to an aggregate amount of not less than Rs. 3 in respect of one or more of the following taxes, namely, property-tax, tax on companies, or profession-tax; or

(*g*) was assessed in the previous year to income-tax; or

(*h*) is retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces.

Muhammadan constituencies

7. A person shall be qualified as an elector for a Muhammadan constituency, urban or rural, who is a Muhammadan and resided in the constituency for not less than 120 days in the previous year and has any of the qualifications prescribed in this Schedule for an elector of a Madras City, other urban, or rural constituency, as the case may be.

Indian Christian constituencies

8. A person shall be qualified as an elector for an Indian Christian constituency who is an Indian Christian and resided in the constituency for not less than 120 days in the previous year and has any of the qualifications prescribed in this Schedule for an elector of any urban or rural constituency included in the area of such Indian Christian constituency.

European and Anglo-Indian constituencies

9. A person shall be qualified as an elector for the European constituency who is a European, and for the Anglo-Indian constituency who is an Anglo-Indian, if such European or Anglo-Indian resided in the Madras Presidency for not less than 120 days in the previous year and has any of the qualifications prescribed in this Schedule for an elector of any urban or rural constituency.

Rental value

10. For the purposes of this Schedule, the annual rent value of land shall be determined in accordance with the provisions of section 64 of the Madras Local Boards Act, 1884, with reference to the accounts of the *fasli* year preceding the calendar year in which the electoral roll for the time being under preparation is first published under these rules, or, if the accounts for that year are not available, then with reference to the latest accounts that are available: Provided that, if in any case it is not possible to calculate the rent value in accordance with the provisions of section 64 of the Madras Local Boards Act, 1884, the Registration Officer shall determine the value for the purpose of this Schedule upon the best information available.

Joint families

11. If property is held or payments are made jointly by the members of a joint family or by joint pattadars, the family or joint holding shall be adopted as the unit for deciding whether under this Schedule the requisite qualification exists; and, if it does exist, the person qualified shall be the member authorized by a majority of the family or of the joint holders, or, in the case of a Hindu joint family, either a member so authorized or the manager thereof.

Person not qualified in both personal and representative capacity.

12. A person may be qualified either in his personal capacity or in the capacity of a representative of a joint family or of joint pattadars but not in both capacities.

13. Save as provided in paragraph 11 of this Schedule, no person shall be qualified as an elector in respect of any property unless he possesses the prescribed property qualification in his own personal right and not in a fiduciary capacity. **Fiduciary capacity not recognized**

SPECIAL CONSTITUENCIES

Landholders' Constituencies

14. A person shall be qualified as an elector for a Landholders' constituency who is a zamindar, janmi or malikanadar and resided in the constituency for not less than 120 days in the previous year and who— **Landholders' constituencies**

(*a*) possesses an annual income, calculated as provided in paragraphs 15, 16 and 17 of this Schedule, of not less than Rs. 3,000 derived from an estate within the Presidency of Madras ; or

(*b*) is registered as the janmi of land situated within the Presidency of Madras on which the assessment is not less than Rs. 1,500 ; or

(*c*) receives from Government a malikana allowance the annual amount of which is not less than Rs. 3,000.

15. For the purposes of paragraph 14 of this Schedule, the annual income of a zamindar shall be taken to be the annual rent value upon which the land-cess is calculated under the Madras Local Boards Act, 1884, excluding the jodi, quit-rent, peshkash or similar charge payable by him to Government. **Annual income**

16. In calculating annual income and assessment for the purposes of paragraph 14 of this Schedule— **Method of calculating annual income and assessments**

(*a*) income derived from an estate shall not be reckoned along with income derived from any land other than an estate, but it may be reckoned along with a malikana allowance ;

(*b*) in no case shall income derived from a portion of an estate which is not separately registered in the office of a Collector be taken into account ;

(*c*) assessments paid on more than one parcel of land may be reckoned together : provided that, in the case of land referred to in paragraphs 19 and 20 of this Schedule, the assessment paid thereon shall not be added to any assessment paid on other land unless the holder of the latter has been nominated or is entitled under those paragraphs to represent the joint holders or family in respect of the former land.

17. For the purposes of paragraph 14 of this Schedule, the annual rent value and assessment shall be determined with reference to the accounts of the *fasli* year preceding the calendar year in which the electoral roll for the time being under preparation is first published under these rules or, if the accounts for that year are not available, with reference to the latest accounts that are available : provided that, if in any case it is not possible to calculate the rent value in accordance with the provisions of paragraph 16 of this Schedule, the Collector shall determine the value upon the best information available. **Basis of determination of annual rent value and assessment**

18. Save as expressly provided in this Schedule, no person claiming to be qualified as an elector for a Landholders' constituency on account of the possession of income derived from land for which a public **Entry of name in land register.**

register is kept shall be entitled to have such income taken into account in determining his eligibility unless the land from which the income is derived stands registered in such register in his name.

Joint holders of land

19. If several persons are registered as joint holders of land, a majority of the adult male persons so registered may nominate in writing any one of themselves who is not disqualified to be their representative for voting purposes, and the name of such representative alone shall be entered in the electoral roll and, if such nomination is not made, no entry shall be made in the roll in respect of such land.

Explanation.—Land registered under section 14 of the Malabar Land Registration Act, 1895, in the joint names of the registered proprietor and another person is not land registered in the names of joint holders within the meaning of this paragraph.

Where property is entered in name of a woman

20. When the property of a tarwad or similar joint family under the Marumakkattayam law is registered in the name of a woman and would, but for the disqualification of sex, qualify the registered holder as an elector, the senior male member of the family who is not disqualified or any member not disqualified who is nominated in writing by a majority of the adult male members, shall be qualified as the representative of the family.

Fiduciary capacity not recognized

21. Save as hereinbefore provided, no person shall be qualified as an elector unless he possesses the prescribed property qualification in his own personal right and not in a fiduciary capacity.

Election of registration in personal or representative capacity

22. A person who is nominated or qualified, under paragraph 19 or paragraph 20 of this Schedule, to represent a group of joint owners or a joint family, and who is himself possessed of a separate property qualification as an elector, may elect whether to be entered in the electoral roll in his representative or separate capacity, but he shall be entered in one such capacity only.

Other Special Constituencies

The University constituency

23. A person shall be qualified as an elector for the Madras University constituency if he has a place of residence in India and is a member of the Senate, or an Honorary Fellow, or a graduate of over seven years' standing of the University of Madras.

The Planters' constituency

24. A person shall be qualified as an elector for the Madras Planters' constituency if he is a member of one of the associations affiliated to the United Planters' Association of Southern India.

The Madras Chamber of Commerce and Industry constituency

25. A person shall be qualified as an elector for the Madras Chamber of Commerce constituency if he is a member of the Madras Chamber of Commerce or of a Chamber affiliated to it.

Other Commerce constituencies

26. Members of the Madras Trades Association, the Southern India Chamber of Commerce and the Nattukkottai Nagarathars' Association shall be qualified respectively as electors for the constituency comprising the Chamber or Association of which they are members.

SCHEDULE III

(See rule 17)*

Return of election expenses

1. Under the head of receipts there shall be shown the name and description of every person (including the candidate), club, society or association from whom any money security or equivalent of money was

* Page 141 supra.

received in respect of expenses incurred on account of, or in connection with, or incidental to, the election, and the amount received from each person, club, society or association separately.

2. Under the head of expenditure there shall be shown—

(*a*) the personal expenditure of the candidate incurred or paid by him or his election agent, including travelling and all other personal expenses incurred in connection with his candidature ;

(*b*) the name, and the rate and total amount of the pay, of each person employed as an agent (including the election agent), clerk or messenger ;

(*c*) the travelling expenses and any other expenses incurred by the candidate or his election agent on account of agents (including the election agent), clerks or messengers ;

(*d*) the travelling expenses of persons, whether in receipt of salary or not, incurred in connection with the candidature, and whether paid or incurred by the candidate, his election agent or the person so travelling ;

(*e*) the cost whether paid or incurred of—

(i) printing,
(ii) advertising,
(iii) stationery,
(iv) postage,
(v) telegrams, and
(vi) rooms hired either for public meetings or as committee rooms ;

(*f*) any other miscellaneous expenses whether paid or incurred.

Note.—(1) All expenses incurred in connection with the candidature whether paid by the candidate, his election agent, or any other person, or remaining unpaid on the date of the return are to be set out.

(2) For all items of Rs. 5 and over, unless from the nature of the case (e.g., travel by rail or postage) a receipt is not obtainable, vouchers are to be attached.

(3) All sums paid but for which no receipt is attached are to be set out in detail with dates of payment.

(4) All sums unpaid are to be set out in a separate list.

3. The form of affidavit referred to in rule 17 shall be as follows :—

Affidavit

I   being the appointed election agent for a candidate for election   in the   constituency (or I   being a candidate for election in the   constituency), do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge and belief been incurred in, and for the purposes of, ———'s candidature. / my candidature.

(Sd.)

Election agent or *candidate.*

Solemnly affirmed before me

(*Magistrate*).

SCHEDULE IV

(See rules 5, 7, 20, 31, 42 and 45) *

Bribery

The following shall be deemed to be corrupt practices † for the purposes of these rules :—

PART I

1. A gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratifications to any person whomsoever, with the object, directly or indirectly, of inducing—

(*a*) a person to stand or not to stand as, or to withdraw from being, a candidate, or

(*b*) an elector to vote or refrain from voting at an election,

or as a reward to—

(*a*) a person for having so stood or not stood or for having withdrawn his candidature, or

(*b*) an elector for having voted or refrained from voting.

Explanation.—For the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses *bona fide* incurred at or for the purposes of any election and duly entered in the return of election expenses prescribed by these rules.

Undue influence

2. (1) Any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person with the connivance of the candidate or his agent, by any of the means hereafter specified, with the right of any person to stand or not to stand or to withdraw from standing as a candidate, or with the free exercise of the franchise of an elector.

(2) The means above alluded to are—

(*a*) any violence, injury, restraint, or fraud and any threat thereof;

(*b*) any threat to a person or inducement to a person to believe that he or any person in whom he is interested will become or be rendered an object of divine displeasure or spiritual censure;

but do not include any declaration of public policy or promise of public action.

Personation

3. The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper

* Pages 135, 136, 142, 145, 147 and 148 respectively.

† For the Indian Elections Offences and Inquiries Act, 1920, see pages 99—105.

in the name of any other person, whether living or dead, or in a fictitious name, or by a person who has voted once at an election for a voting paper in his own name at the same election.

4. The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice such candidate's election. Publication of false statements

5. The incurring or authorizing by a candidate or his agent of expenditure or the employment of any person by a candidate or his agent in contravention of the provisions of any notification of the Governor-General in Council issued under rule 18 of these rules. Authorisation of expenditure

Part II

1. Any act specified in Part I, when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent. Acts under Part I

2. The application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name after he has already voted at such election. Personation

3. The receipt of, or agreement to receive, any gratification, whether as a motive or a reward— Bribery

(*a*) by a person to stand or not to stand as, or to withdraw from being, a candidate, or

(*b*) by any person whomsoever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting or any candidate to withdraw his candidature.

4. Any payment or promise of payment to any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote. Payment for conveyance

5. The hiring, employment, borrowing or using for the purposes of the election of any boat, vehicle or animal usually kept for letting on hire or for the conveyance of passengers by hire: Hiring and use of public conveyances

Provided that any elector may hire any boat, vehicle or animal, or use any boat, vehicle or animal which is his own property, to convey himself to or from the place where the vote is recorded.

6. The incurring or authorization of expenses by any person other than a candidate or his election agent on account of holding any public meeting or upon any advertisement, circular or publication or in any Incurring expense without authority

other way whatsoever for the purpose of promoting or procuring the election of such candidate, unless he is authorized in writing so to do by the candidate.

Hiring of liquor shops

7. The hiring, using or letting, as a committee-room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public.

Issue of circulars, etc., without printer's and publisher's name printed thereon

8. The issuing of any circular, placard or poster having reference to the election which does not bear on its face the name and address of the printer and publisher thereof.

MADRAS LEGISLATIVE COUNCIL RULES *

Short title and commencement

1. (1) These rules may be called the Madras Legislative Council Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council with the approval of the Secretary of State in Council.†

Definitions

2. In these rules—

"Council" means the Legislative Council of the Governor of Madras;

"Finance Member" means the member of the Council appointed by the Governor to perform the functions of the Finance Member under these rules;

"Gazette" means the *Fort St. George Gazette*;

"member" means a member of the Council;

"member of the Government" means a member of the Executive Council or a minister, and includes any member to whom such member may delegate any function assigned to him under these rules;

"resolution" means a motion for the purpose of discussing a matter of general public interest;

"standing order" means a standing order of the Council; and

"Secretary" means a Secretary to the Council, and includes any person for the time being performing the duties of the Secretary.

Temporary Chairman

3. At the commencement of every Session, the President shall nominate from amongst the members of the Council a panel of not more than four Chairmen, any one of whom may preside over the Council in the absence of the President and Deputy President, when so requested by the President or, in his absence, by the Deputy President.

Powers of persons presiding

4. The Deputy President and any Chairman of the Council shall, when presiding over the Council, have the same powers as the President when so presiding, and all references to the President in the rules and standing orders shall, in these circumstances, be deemed to be references to any such person so presiding.

Appointment of the Secretary

5. The Secretary and such assistants of the Secretary as the Governor considers to be necessary shall be appointed by order in writing by the Governor and shall hold office during his pleasure.

Allotment of time for non-official business and precedence of business

6. The Governor, after considering the state of business of the Council, shall, at the commencement of each Session, allot as many days as are in his opinion compatible with the public interests for the business of non-official members in the Council, and may from time to time during the Session alter such allotment, and on these days such business shall have precedence. At all other times Government business shall have precedence.

Power to disallow questions

7. The President may within the period of notice disallow any question or any part of a question on the ground that it relates to a matter which is not primarily the concern of the local Government, and, if he does so, the question or part of the question shall not be placed on the list of questions.

Subject-matter of questions

‡ 8. (1) A question may be asked for the purpose of obtaining information on a matter of public concern within the special cognisance of the member to whom it is addressed:

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* Government of India Notification No. 122, dated 27th September 1920.

† These rules were brought into force with effect from 17th December 1920—vide Government of India Notification (Legislative) No. 153, dated 17th December 1920.

‡ Vide Government of India Notification (Reforms) No. 1 G., dated 3rd January 1921.

Provided that no question shall be asked in regard to any of the following subjects, namely :—

(*i*) any matter affecting the relations of His Majesty's Government or of the Government of India, or of the Governor or the Governor in Council, with any foreign State ;

(*ii*) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief ; and

(*iii*) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

(2) If any doubt arises whether any question is or is not within the restrictions imposed by sub-rule (1), the Governor shall decide the point and his decision shall be final.

Questions regarding controversy with higher authorities

9. In matters which are or have been the subject of controversy between the Governor-General in Council or the Secretary of State and the local Government, no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of facts.

Supplementary questions

10. Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given :

Provided that the President shall disallow any supplementary question if in his opinion, it infringes the rules as to the subject-matter of questions.

Motions for adjournments

11. A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the President.

Restrictions on power to make motion

12. The right to move the adjournment of the Council for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely :—

(*i*) not more than one such motion shall be made at the same sitting ;

(*ii*) not more than one matter can be discussed on the same motion, and the motion must be restricted to a specific matter of recent occurrence ;

(*iii*) the motion must not revive discussion on a matter which has been discussed in the same Session ;

(*iv*) the motion must not anticipate a matter which has been previously appointed for consideration, or with reference to which a notice of motion has been previously given ; and

(*v*) the motion must not deal with a matter on which a resolution could not be moved.

Quorum

13. The presence of at least thirty members shall be necessary to constitute a meeting of the Council for the exercise of its powers.

Language of the Council

14. The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognized vernacular of the Province, provided that the President may call on any member to speak in any language in which he is known to be proficient.

Decision on points of order

15. (1) The President shall decide all points of order which may arise, and his decision shall be final.

(2) Any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point.

16. The President, after having called the attention of the Council to the conduct of a member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech. Irrelevance or repetition

17. (1) The President shall preserve order and have all powers necessary for the purpose of enforcing his decisions on all points of order. Power to order withdrawal of member

(2) He may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same Session, the President may direct the member to absent himself from the meetings of the Council for any period not longer than the remainder of the Session, and the member so directed shall absent himself accordingly.

(3) The President may in the case of grave disorder arising in the Council suspend any sitting for a time to be named by him.

18. The Governor may order the publication of any Bill (together with the Statement of Objects and Reasons accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and, if the Bill is afterwards introduced, it shall not be necessary to publish it again. Publication of Bills

19. (1) Any member, other than a member of the Government, desiring to move for leave to introduce a Bill shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and a full Statement of Objects and Reasons. Notice of motion for leave to introduce Bills

(2) If the Bill is a Bill which under the Government of India Act requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.

(3) If any question arises whether a Bill is or is not a Bill which requires sanction under the Government of India Act, the question shall be referred to the authority which would have power to grant the sanction if it were necessary, and the decision of that authority on the question shall be final.

(4) The period of notice of a motion for leave to introduce a Bill under this rule shall be as follows, namely:—

(*a*) if the Bill relates to a transferred subject—fifteen days;

(*b*) if the Bill relates to a reserved subject—one month or, if the Governor so directs, a further period not exceeding in all two months.

20. As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette. Publication

21. If the Governor certifies that a Bill or any clause of a Bill or any amendment to a Bill affects the safety or tranquillity of a Province or any part thereof, and directs that no proceedings or no further proceedings shall be taken thereon, all notices of motions in connexion with the subject-matter of the certificate shall lapse, and if any such motion has not already been set down on the list of business it shall not be so set down. If any such motion has been set down on the list of business, the President shall, when the motion is reached, inform the Council of the Governor's action, and the Council shall forthwith without debate proceed to the next item of business. Effect of certification by Governor

Power to disallow resolutions

22. (1) The Governor may within the period of notice disallow any resolution or any part of a resolution, on the ground that it cannot be moved without detriment to the public interest, or on the ground that it relates to a matter which is not primarily the concern of the local Government, and if he does so the resolution or part of the resolution shall not be placed on the list of business.

(2) The Governor may disallow on grounds as aforesaid any motion for adjournment under rule 11, notwithstanding the consent of the President, and if he does so the adjournment shall not be permitted by the President and no further discussion of the motion shall take place.

Restrictions on subjects for discussion

*23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Government, and no resolution shall be moved in regard to any of the following subjects, namely :—

(*i*) any matter affecting the relations of His Majesty's Government, or of the Government of India, or of the Governor or the Governor in Council, with any foreign State;

(*ii*) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief; and

(*iii*) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

(2) The decision of the Governor on the point whether any resolution is or is not within the restrictions imposed by sub-rule (1) shall be final.

Copy to Government

24. A copy of every resolution which has been passed by the Council shall be forwarded to the Government, but any such resolution shall have effect only as a recommendation to the Government.

The Budget

25. A statement of the estimated annual expenditure and revenue of the Province (hereinafter referred to as "the Budget") shall be presented to the Council on such day as the Governor may appoint.

Demands for grants

26. (1) A separate demand shall ordinarily be made in respect of the grant proposed for each Department of the Government, provided that the Finance Member may in his discretion include in one demand grants proposed for two or more Departments, or make a demand in respect of expenditure, such as Famine Relief and Insurance and Interest, which cannot readily be classified under particular Departments. Demands affecting reserved and transferred subjects shall, so far as may be possible, be kept distinct.

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant divided into items.

(3) Subject to these rules, the Budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Council.

Stages of the Budget debate

27. The Budget shall be dealt with by the Council in two stages, namely ;

(*i*) a general discussion ; and

(*ii*) the voting of demands for grants.

General discussions

28. (1) On a day to be appointed by the Governor subsequent to the day on which the Budget is presented and for such time as the Governor may allot for this purpose, the Council shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage, nor shall the Budget be submitted to the vote of the Council.

* Vide Government of India Notification (Reforms) No. 1 G., dated 3rd January 1921.

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if he thinks fit, prescribe a time-limit for speeches.

29. (1) Not more than twelve days shall be allotted by the Governor for the discussion of demands of the local Government for grants. Voting of grants

(2) Of the days so allotted, not more than two days shall be allotted by the Governor to the discussion of any one demand. As soon as the maximum limit of time for discussion is reached, the President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at 5 o'clock, the President shall forthwith put every question necessary to dispose of all the outstanding matters in connexion with the demands for grants.

30. (1) No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council. Motions at this stage

(2) Motions may be moved at this stage to omit or reduce any grant or any item in a grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

(4) No motion shall be made for the reduction of a grant as a whole until all motions for the omission or reduction of definite items within that grant have been discussed.

31. When money has been spent on any service for which the vote of Council is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Council by the Finance Member and shall be dealt with in the same way by the Council as if it were a demand for a grant. Excess grants

32. (1) An estimate shall be presented to the Council for a supplementary or additional grant when— Supplementary or additional grants

(*i*) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or

(*ii*) a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the Budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Council as if they were demands for grants.

33. (1) As soon as may be after the commencement of each financial year, a Committee on Public Accounts shall be constituted for the purpose of dealing with the audit and appropriation accounts of the Province and such other matters as the Finance Department may refer to the Committee. Constitution of Committee on Public Accounts

(2) The Committee on Public Accounts shall consist of such number of members as the Governor may direct, of whom not less than two-thirds shall be elected by the non-official members of the Council according to the principle of proportionate representation by means of the single transferable vote. The remaining members shall be nominated by the Governor.

(3) The Finance Member shall be Chairman of the Committee, and in the case of an equality of votes on any matter, shall have a second or casting vote.

Control of Committee on Public Accounts

34. (1) In scrutinising the audit and appropriation accounts of the Province, it shall be the duty of the Committee to satisfy itself that the money voted by the Council has been spent within the scope of the demand granted by the Council.

(2) It shall be the duty of the Committee to bring to the notice of the Council—

(*i*) every re-appropriation from one grant to another grant;

(*ii*) every re-appropriation within a grant which is not made in accordance with the rules regulating the functions of the Finance Department, or which has the effect of increasing the expenditure on an item the provision for which has been specifically reduced by a vote of the Council; and

(*iii*) all expenditure which the Finance Department has requested should be brought to the notice of the Council.

SCHEDULED TAXES RULES

* RULES UNDER SECTION 80-A (3) (*a*) OF THE GOVERNMENT OF INDIA ACT

Short Title and Commencement

1. (1) These rules may be called the Scheduled Taxes Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.†

Taxes which may be imposed for purposes of local Government

2. The Legislative Council of a province may, without the previous sanction of the Governor-General, make and take into consideration any law imposing, for the purposes of the local Government. any tax included in Schedule I to these rules.

Taxes which may be imposed for purposes of local authorities

3. The Legislative Council of a province may, without the previous sanction of the Governor-General, make and take into consideration any law imposing, or authorizing any local authority to impose, for the purposes of such local authority, any tax included in Schedule II to these rules.

Additions to Schedules

4. The Governor-General in Council may at any time, by order, make any addition to the taxes enumerated in Schedules I and II to these rules.

Saving

5. Nothing in these rules shall affect the right of a local authority to impose a tax without previous sanction or with the previous sanction of the local Government when such right is conferred upon it by any law for the time being in force.

SCHEDULE I

1. A tax on land put to uses other than agricultural.
2. A tax on succession or on acquisition by survivorship in a joint family.
3. A tax on any form of betting or gambling permitted by law.
4. A tax on advertisements.
5. A tax on amusements.
6. A tax on any specified luxury.
7. A registration fee.
8. A stamp-duty other than duties of which the amount is fixed by Indian legislation.

SCHEDULE II

(*In this Schedule the word "tax" includes cess, rate, duty or fee.*)

1. A toll.
2. A tax on land or land values.
3. A tax on buildings.
4. A tax on vehicles or boats.

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* Government of India Notification (Reforms) No. 311-S., dated 16th December 1920.

† These rules were brought into force with effect from 17th December 1920—vide Government of India Notification (Reforms) No. 317-S, dated 17th December 1920.

5. A tax on animals.

6. A tax on menials and domestic servants.

7. An octroi.

8. A terminal tax on goods imported into a local area in which an octroi was levied on or before the 6th July 1917.

9. A tax on trades, professions and callings.

10. A tax on private markets.

11. A tax imposed in return for services rendered, such as—

(*a*) a water rate,

(*b*) a lighting rate,

(*c*) a scavenging, sanitary or sewage rate,

(*d*) a drainage tax,

(*e*) fees for the use of markets and other public conveniences

LOCAL LEGISLATURES (PREVIOUS SANCTION) RULES

* RULES UNDER SECTION 80-A (3) (*h*) OF THE GOVERNMENT OF INDIA ACT

Short Title and Commencement

1. (1) These rules may be called the Local Legislatures (Previous Sanction) Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.†

Laws requiring previous sanction

2. A local legislature may not repeal or alter without the previous sanction of the Governor-General—

(1) any law made by any authority in British India before the commencement of the Indian Councils Act, 1861 : provided that the Governor-General in Council may, by notification in the *Gazette of India*, declare that this provision shall not apply to any such law which he may specify and, if he does so, previous sanction shall not thereafter be necessary to the alteration or repeal of that law ; or

(2) any law specified in the Schedule to these rules or any law made by the Governor-General in Council amending a law so specified.

Year	Number	Short title
1860	XLV	The Indian Penal Code.
1864	III	The Foreigners Act, 1864.
1865	III	The Carriers Act, 1865.
"	X	The Indian Succession Act, 1865.
"	XV	The Parsi Marriage and Divorce Act, 1865.
"	XXI	The Parsi Intestate Succession Act, 1865.
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866.
"	XXVIII	The Trustees and Mortgagees' Powers Act, 1866.
1867	XXV	The Press and Registration of Books Act, 1867.
1869	IV	The Indian Divorce Act, 1869.
1870	XXI	The Hindu Wills Act, 1870.
1872	I	The Indian Evidence Act, 1872.
"	III	The Special Marriage Act, 1872.
"	IX	The Indian Contract Act, 1872.
"	XV	The Indian Christian Marriage Act, 1872.
1873	X	The Indian Oaths Act, 1873.
1874	III	The Married Women's Property Act, 1874.
"	XIV	The Scheduled Districts Act, 1874.
"	XV	The Laws Local Extent Act, 1874.
1875	IX	The Indian Majority Act, 1875.
1877	I	The Specific Relief Act, 1877.
1881	V	The Probate and Administration Act, 1881.
"	XIII	The Fort William Act, 1881.
"	XXVI	The Negotiable Instruments Act, 1881.
1882	II	The Indian Trusts Act, 1882.
"	IV	The Transfer of Property Act, 1882.
"	VII	The Powers-of-Attorney Act, 1882.
1889	IV	The Indian Merchandise Marks Act, 1889.
"	VII	The Succession Certificate Act, 1889.
"	XV	The Indian Official Secrets Act, 1889.
1890	VIII	The Guardians and Wards Act, 1890.

* Government of India Notification (Reforms) No. 312-S., dated 16th December 1920.

† These rules were brought into force with effect from 17th December 1920—vide Government of India Notification (Reforms) No. 318-S., dated 17th December 1920.

Year	Number	Short title
1890	IX	The Indian Railways Act, 1890.
1891	XVIII	The Bankers' Books Evidence Act, 1891.
1895	XV	The Crown Grants Act, 1895.
1897	III	The Epidemic Diseases Act, 1897.
"	X	The General Clauses Act, 1897.
"	XIV	The Indian Short Titles Act, 1897.
1898	V	The Code of Criminal Procedure, 1898.
"	IX	The Live-stock Importation Act, 1898.
1899	IX	The Indian Arbitration Act, 1899.
1903	XIV	The Indian Foreign Marriage Act, 1903.
"	XV	The Indian Extradition Act, 1903.
1908	V	The Code of Civil Procedure, 1908.
"	IX	The Indian Limitation Act, 1908.
"	XIV	The Indian Criminal Law Amendment Act, 1908.
"	XV	The Indian Ports Act, 1908.
"	XVI	The Indian Registration Act, 1908.
1909	III	The Presidency-towns Insolvency Act, 1909.
"	IV	The Whipping Act, 1909.
"	VII	The Anand Marriage Act, 1909.
1910	I	The Indian Press Act, 1910.
1911	X	The Seditious Meetings Act, 1911.
1912	IV	The Indian Lunacy Act, 1912.
"	V	The Provident Insurance Societies Act, 1912.
"	VI	The Indian Life Assurance Companies Act, 1912.
1913	VI	The Mussalman Wakf Validating Act, 1913.
"	VII	The Indian Companies Act, 1913.
1914	II	The Destructive Insects and Pests Act, 1914.
"	III	The Indian Copyright Act, 1914.
"	IX	The Local Authorities Loans Act, 1914.
1916	XV	The Hindu Disposition of Property Act, 1916.
1917	I	The Inland Steam Vessels Act, 1917.
"	XXVI	The Transfer of Property (Validating) Act, 1917.
1918	X	The Usurious Loans Act, 1918.
1919	XI	The Anarchical and Revolutionary Crimes Act, 1919.
1920	V	The Provincial Insolvency Act, 1920.
"	X	The Indian Securities Act, 1920.
"	XIV	The Charitable and Religious Trusts Act, 1920.

Notification of the Government of India, Home Department (Public), No. 1407, *dated Simla, the* 19*th May* 1921.

In pursuance of clause (1) of rule 2 of the Local Legislatures (Previous Sanction) Rules, the Governor-General in Council is pleased to declare that the provisions of that rule shall not apply to any of the enactments specified below :—

Year	Number	Short title
		MADRAS REGULATIONS
1802	XXVI	The Madras Land Registration Regulation, 1802.
"	XXIX	The Madras Karnams Regulation, 1802.
1816	XI	The Madras Village Police Regulation, 1816.
"	XII	The Madras Village-lands Disputes Regulation, 1816.
1817	VII	The Madras Endowments and Escheats Regulation, 1817.

Year	Number	Short title
		MADRAS REGULATIONS—*cont.*
1817	VIII	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.
1821	IV	The Madras Village Police Regulation, 1821.
1822	VII	The Madras Native Public Officers Regulation, 1822.
,, ...	IX	The Madras Revenue Malversation Regulation, 1822.
1823 . ..	III	The Madras Revenue Malversation (Amendment) Regulation, 1823.
1828	VII	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.
1831	V	The Madras Stamp Penalties Regulation, 1831.
1832	III	The Madras Revenue Malversation (Amendment) Regulation, 1832.
		BOMBAY REGULATIONS
1827	XII	[A Regulation for defining the duties and powers of Police authorities.]
1830	XIII	[A Regulation vesting certain jagirdars, etc., with the powers of deciding suits.]
		BENGAL REGULATIONS
1793	XI	The Bengal Inheritance Regulation, 1793.
1795	XLIV	The Benares Inheritance Regulation, 1795.
1805	XIII	The Cuttack Police Regulation, 1805.
1810	XIX	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.
1814	XXIX	The Bengal Ghatwali Lands Regulation, 1814.
1816	V	The Bengal Kanungos Regulation, 1816.
1817	XII	The Bengal Patwaris Regulation, 1817.
,, ...	XX	The Bengal Police Regulation, 1817.
1819	I	The Bengal Kanungos and Patwaris Regulation, 1819.
,, ...	II	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819.
1822	VII	The Bengal Land-revenue Settlement Regulation, 1822.
1823	VI	The Bengal Indigo Contracts Regulation, 1823.
1825	IX	The Bengal Land-revenue Settlement Regulation, 1825.
,, ...	XI	The Bengal Alluvion and Diluvion Regulation, 1825.
,, ...	XIII	The Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1825.
,, ...	XIV	The Bengal Revenue-free Lands Regulation, 1825.
1828	III	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.
,, ...	IV	The Bengal Land Revenue Settlement Regulation, 1828.
1830	V	The Bengal Indigo Contracts Regulation, 1830.
1831	XI	[A Regulation for vesting Tahsildars with the powers of Police-officers.]
1833	IX	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.
		GENERAL ACTS
1846	I	The Legal Practitioners Act, 1846.
1851	VIII	The Indian Tolls Act, 1851.
1853	XX	The Legal Practitioners Act, 1853.
1861	XVI	The Stage-Carriages Act, 1861.

Year	Number	Short title
		LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL
1835	XIX	(An Act to appoint the Assistant Judge of the Zila Court of Puna to be Assistant to the Agent for Sardars in the Dekkhan.)
1836	X	The Bengal Indigo Contracts Act, 1836.
1837	XXXVI	The Madras Public Property Malversation Act, 1837.
1838	XVI	(An Act to declare that all suits in regard to tenures shall be brought in Civil and not Revenue Courts.)
,, ...	XIX	(An Act to make rules as to coasting and other vessels belonging to Her Majesty's subjects.)
1839	VII	The Madras Rent and Revenue Sales Act, 1839.
,, ...	XX	(An Act to prohibit the levy of haqqs, fees and customs.)
1840	VIII	The Madras Panchayats Act, 1840.
1841	XII	The Bengal Land-Revenue Sales Act, 1841.
1844	XIX	(An Act for abolishing town-duties, etc., within the Presidency of Bombay.)
1847	IX	The Bengal Alluvion and Diluvion Act, 1847.
1848	XX	The Bengal Landholders' Attendance Act, 1848.
1850	XXIII	The Calcutta Land-revenue Act, 1850.
,, ...	XXV	The Forfeited Deposits Act, 1850.
1851	XII	The Madras City Land-revenue Act, 1851.
1852	XI	(An Act for the adjudication of certain Titles to Estates claimed to be wholly or partially rent-free.)
1853	VI	The Rent Recovery Act, 1853.
,, ...	XI	(An Act to facilitate the removal of nuisances and encroachments below high-water mark in the Islands of Bombay and Kolaba.)
,, ...	XIX	The Recusant Witnesses Act, 1853.
1854	XVI	An Act to amend the Bengal Regulation XI of 1831.
,, ...	XXIV	The Malabar War-knives Act, 1854.
1855	XXXII	The Bengal Embankment Act, 1855.
1856	XII	The Civil Courts Amins Act, 1856.
,, ...	XVIII	The Calcutta Land-revenue Act, 1856.
,, ...	XX	The Bengal Chaukidari Act, 1856.
1857	IV	(An Act to amend the law relating to the duties payable on tobacco.)
,, ...	VII	The Madras Uncovenanted Officers Act, 1857.
,, ...	XXI	The Howrah Offences Act, 1857.
1858	I	The Madras Compulsory Labour Act, 1858.
,, ...	XXXI	The Bengal Alluvial Land Settlement Act, 1858.
1859	V	The Bengal Ghatwali Lands Act, 1859.
,, ...	X	The Bengal Rent Act, 1859.
,, ...	XI	The Bengal Land-revenue Sales Act, 1859.

AUDITOR-GENERAL'S POWERS

In exercise of the powers conferred by section 96 **D** (1) of the Government of India Act, the Secretary of State in Council, with the concurrence of the majority of votes at a meeting of the Council held on the 4th day of January 1920, hereby makes the following rules, which shall have effect from the said date :—

RULES FRAMED BY THE SECRETARY OF STATE IN COUNCIL UNDER SECTION 96-D (1) OF THE GOVERNMENT OF INDIA ACT, 1915-16

Chapter I—Definitions

1. In these rules—

(*a*) "*Accounts*" includes accounts of stores and stock, as well as accounts of money transactions ;

(*b*) "*Audit Officer*" means any officer of the Indian Audit Department or of an excluded audit department who exercises audit functions ;

(*c*) "*Excluded Audit Department*" means a department in charge of the accounts and audit of the transactions of the military departments in India, and any other specialised audit department which the Secretary of State in Council may declare to be excluded ;

(*d*) "*Finance and Revenue Accounts of India*" means the accounts prescribed in section 26 of the Act ;

(*e*) "*Indian Audit Department*" means that part of the department heretofore known as the Indian Finance Department, which is exclusively employed, otherwise than in an excluded audit department, on the compilation and audit of accounts of Government transactions in India ; and it includes all specialised audit departments which have not been declared to be excluded ;

(*f*) "*Principal Auditor*" means the head of an excluded audit department and, in the case of the Indian Audit Department, every head of an office of accounts and audit who is immediately subordinate to the Auditor-General ;

(*g*) "*Specialised Audit Department*" means a department in charge of the accounts and audit of the transactions of a particular department of Government ;

(*h*) "*The Act*" means the Government of India Act.

Chapter II—Conditions of Employment

Part I—Pay and General

2. The pay of the Auditor-Generel shall be Rs. 5,000 a month.

3. The Auditor-General, on vacating his office, shall not be eligible to hold any other post under the Crown in India.

Part II—Leave

4. The Auditor-General shall be entitled to leave on the conditions laid down in section 96-B of the Act and the rules in force thereunder for other officers in the civil service of the Crown in India, or if he was not prior to his appointment in the service of the Crown in India, on such conditions as may be prescribed at the time of his appointment by the Secretary of State in Council.

Part III—Pension

5. The Auditor-General's service for pension shall be calculated in accordance with the provisions of section 96-B of the Act and the rules in force thereunder for other persons in the civil service of the Crown in India.

6. The amount of the Auditor-General's pension shall, if he was prior to his appointment in the service of the Crown in India, be calculated in accordance with the provisions of section 96-B of the Act and the rules in force thereunder for the service to which he belonged, and otherwise in accordance with such terms as the Secretary of State in Council may fix in the case of each person appointed.

Chapter III—Provision for a Temporary Vacancy or Absence from Duty

7. In the case of a temporary vacancy in the post of Auditor-General or of the absence of an Auditor-General from duty the Governor-General in Council shall have power to appoint an officiating Auditor-General. The salary of such officer shall be fixed in accordance with the rules in force under section 96-B of the Act regulating the salary of an officiating officer.

Chapter IV—Duties and Powers

Part I—General

8. Subject to any general or special orders of the Secretary of State in Council, the Auditor-General shall be—

(i) the final audit authority in India, and

(ii) responsible for the efficiency of the audit of expenditure in India from the revenues of India.

He shall further be, to the extent authorized by these rules, the administrative head of the Indian Audit Department.

9. The Auditor-General shall have authority—

(i) to inspect, either personally or by his Deputy Auditors-General any office of accounts and audit in India ;

(ii) to arrange for test audit in any office of accounts and audit ;

(iii) subject to any orders of the Secretary of State in Council prescribing the nature and extent of the audit to be applied to specified classes of expenditure, to frame rules for the guidance of audit officers in audit matters, particularly in respect of the method and extent of audit and the raising and pursuance of objections ;

(iv) to instruct the head of an excluded audit department to arrange for the submission of accounts to the Auditor-General in such

form and at such time as the Auditor General may prescribe ; and

(v) to pass orders as regards the conduct of business within, and the administration, organization, and discipline of the offices of accounts and audit in India other than those which form part of an excluded audit department.

Part II.—Duties and Powers as regards Audit

10. (*a*) The Auditor-General, without prejudice to his other audit functions, is responsible that audit is conducted with reference to the following canons, namely :—

(1) Every public officer should exercise the same vigilance in respect of expenditure incurred from Government revenues as a person of ordinary prudence would exercise in respect of the expenditure of his own money.

(2) Money borrowed on the security of allocated revenues should be expended on those objects only for which, as provided by rules made under the Act, money may be so borrowed.

If the money is utilized on works which are not productive, arrangements should be made for the amortization of the debt.

(3) No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage.

(4) Government revenues should not be utilized for the benefit of a particular person or section of the community unless —

(i) the amount of expenditure involved is insignificant ; or

(ii) a claim for the amount could be enforced in a court of law ; or

(iii) the expenditure is in pursuance of a recognized policy or custom.

(5) No authority should sanction any expenditure which is likely to involve at a later date expenditure beyond its own powers of sanction.

(6) The amount of allowances, such as travelling allowances, granted to meet expenditure of a particular type, should be so regulated that the allowances are not on the whole sources of profit to the recipients.

(*b*) The Auditor-General or any principal auditor should bring to the notice of the Governor-General in Council or the Local Government, as the case may be, any breach of one of these canons.

11. The audit of sanctions to expenditure accorded by the Governor-General in Council shall be under the immediate supervision of the Auditor-General, who shall, when he accepts such sanctions, communicate his acceptance to the audit officer who will audit the expenditure against the sanctions.

12. The Auditor-General shall, if so required by the Governor-General in Council—

(i) arrange for the audit of the accounts of the receipts of revenue of any Government department, the accounts of any public or quasi-public body, or any other accounts although they may not relate directly to the receipt and expenditure of Government moneys ; and

(ii) arrange for the audit of stores or stock in the possession of an officer or a department of Government, and for the audit of grants of land and alienations of land revenue.

13. If the Auditor-General considers it desirable that the whole or any part of the audit applied to Government accounts, or to any other accounts which he is required to audit under rule 11, shall be conducted in the offices in which these accounts originate, he may require that these accounts, together with all books, papers and writings having relation thereto, shall at all convenient times be made available in those offices for inspection by his audit officers.

14. When an objection taken in the course of audit cannct be adjusted by a principal auditor in consultation with the authorities concerned, the Auditor-General may either instruct the principal auditor to withdraw the objection or require the Governor-General in Council or the Local Government concerned to obtain the requisite sanction, or, in default, to recover the amount under objection;

Provided that if the objection to any expenditure is based solely on the ground that such expenditure contravenes one of the canons set out in rule 10 above, the Auditor-General or principal auditor shall withdraw such objection, at the request of the Finance Department of the Government concerned if the Finance Department states that the breach of the canon and the action taken thereon by the Government will be reported as soon as possible to the Committee on Public Accounts.

15. (*a*) The Auditor-General shall, on such dates as he may prescribe, obtain from each principal auditor, and from any officers of the Indian Audit Department to whom he may entrust this duty, Audit and Appropriation Reports reviewing the results of the audit conducted by and under such officer during the past official year. Any officer of Government may be called upon to provide any information necessary for the preparation of these reports, which shall be in such form and shall deal with such matters as the Auditor-General may prescribe. On receipt of these reports the Auditor-General shall transmit them to the Governor-General in Council or to the Finance Department of the Local Government concerned with such comments as he may think fit.

(*b*) The Auditor-General shall forward to the Secretary of State through the Governor-General in Council the several reports dealing with the total expenditure in India in each year with his detailed comments on each report and may also offer such further comments of a general nature as he may think fit.

16. (*a*) The Auditor-General may on his own motion, and shall on reference being made to him by the Governor-General in Council or by a Local Government, review any audit decision of any audit officer, and, if he thinks fit, overrule it.

(*b*) The Auditor-General may dispense with a previous reference to the Secretary of State in Council, otherwise required by the rules regarding sanction to expenditure from time to time in force, in cases

where in his opinion the failure to obtain the sanction of the Secretary of State in Council involves a breach of the letter rather than of the spirit of the rules.

17. The Auditor-General shall have power to require that any books, papers or writings relating to the accounts audited by any audit department in India shall be sent for inspection by him or by any other officer of the Indian Audit Department: provided that—

(i) if the Governor-General in Council or the Local Government, as the case may be, certifies that the documents in question are secret, the Auditor-General or officer, as the case may be, shall accept, in lieu of such documents and as a correct account of the facts, stated therein, a statement certified by the Governor-General in Council or the Local Government; and

(ii) if the documents are confidential, the officer to whom they are made over shall be responsible for preventing disclosure of their contents.

Part III—Duties and powers as regards Accounts

18. The Auditor-General shall compile the Finance and Revenue Accounts of India in such form as may from time to time be prescribed by the Secretary of State in Council and shall send them to the Governor-General in Council for transmission to the Secretary of State in Council. He may call upon any Government officer to furnish any information in such form as may be required for the completion of these accounts.

19. The Auditor-General shall have power to prescribe the forms in which accounts shall be kept in audit offices: provided that no change which will affect the form of the Finance and Revenue Accounts shall be made without the previous sanction of the Secretary of State in Council.

20. If a doubt or a dispute arises as to the major head under which a particular minor head, or as to the minor head under which a particular detailed head should be included, it shall be decided by the Auditor-General.

21. The Auditor-General shall prepare in each year a review of the balances in the books maintained by the audit departments and shall send it to the Governor-General in Council for submission to the Secretary of State in Council.

22. The Auditor-General shall have power to determine the form in which officers rendering accounts to the Indian Audit Department shall render such accounts and shall maintain the initial accounts from which the accounts so rendered are compiled.

23. The Auditor-General shall supply, or shall arrange that officers subordinate to him supply, any information required by the Governor-General in Council or by a Local Government which can be derived from the accounts maintained in the offices under his control.

24. The Auditor-General shall arrange that such assistance as may be required shall be rendered by the officers of the Indian Audit Department to the Governor-General in Council, the Local Governments and other authorities in the preparation of their annual budget estimates.

Part IV.—Powers of Expenditure

25. The Auditor-General shall exercise no powers of incurring expenditure without previous sanction other than such powers as may be delegated to him by the Governor-General in Council.

26. The Governor-General in Council shall arrange that sanctions to expenditure accorded by the Auditor-General shall be audited by some officer unconnected with the audit departments in India.

Part V.—Administrative Power over the Indian Audit Department.

27. The Auditor-General may—

(i) in the case of officers of the Indian Audit Department of any class lower than Class I, transfer, suspend or degrade any such officer, withhold from him any increment or increments of pay, and grant him any leave that may be admissible under rule, and may delegate to any officer of the Indian Audit Department the power of granting such leave ;

(ii) in the case of officers in Class I, of the Indian Audit Department, grant any such officer any leave that may be admissible under rule, and, subject to the control of the Governor-General in Council, transfer any such officer.

28. The Auditor-General may sanction the grant to any officer of the Indian Audit Department of such pension as is admissible under section 96-B of the Act and the rules in force thereunder.

29 The Auditor-General may dismiss from service any officer of the Indian Audit Department other than an officer appointed thereto by the Secretary of State in Council or the Governor-General in Council.

30. No officer employed immediately under the Auditor-General in the audit of sanctions to expenditure accorded by the Governor-General in Council as prescribed by rule 11 shall, without the concurrence of the Auditor-General, be subject to adverse disciplinary action by the Governor-General in Council in respect of the discharge of his duties during the period of such employment.

31. Nothing in this Part shall be deemed to affect any right of appeal which any officer of the Indian Audit Department may possess under the Act or rules made thereunder or under any general or special orders of the Secretary of State in Council or the Governor-General in Council.

RESERVATION OF BILLS RULES

* RULES UNDER SECTION 81-A OF THE GOVERNMENT OF INDIA ACT

Short Title and Commencement

1. (1) These rules may be called the Reservation of Bills Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.†

Bills which must be reserved

2. The Governor of any Governor's province shall reserve for the consideration of the Governor-General any Bill which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if the Bill appears to the Governor to contain provisions in respect of which the Bill has not been previously sanctioned by the Governor-General under sub-section (3) of section 80-A of the Government of India Act—

(*a*) affecting the religion or religious rites of any class of British subjects in British India, or

(*b*) regulating the constitution or function of any University, or

(*c*) having the effect of including within a transferred subject matters which have hitherto been classified as reserved subjects, or

(*d*) providing for the construction or management of a light or feeder railway or tramway other than a tramway within municipal limits, or

(*e*) affecting the land revenue of a province either so as to—

(i) prescribe a period or periods within which any temporarily-settled estate or estates may not be reassessed to land revenue, or

(ii) limit the extent to which the assessment to land revenue of such an estate or estates may be made or enhanced, or

(iii) modify materially the general principles upon which land revenue has hitherto been assessed,

if such prescription, limitation or modification appears to the Governor to be likely seriously to affect the public revenues of the province.

Bills which may be reserved

3. The Governor of any Governor's province may reserve for the consideration of the Governor-General any Bill, which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if any provisions of the Bill in respect of which it has not been previously sanctioned by the Governor-General under sub-section (3) of section 80-A of the Government of India Act appear to the Governor—

(*a*) to affect any matter wherewith he is specially charged under his Instrument of Instructions, or

(*b*) to affect any central subject, or

(*c*) to affect the interests of another province.

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* Government of India Notification (Reforms) No. 313-S., dated 16th December 1920.

† These rules have been brought into force with effect from 17th December 1920—vide Government of India Notification (Reforms) No. 319-S., dated 17th December 1920.

NON-OFFICIAL (DEFINITION) RULES

RULES UNDER SECTION 134 OF THE GOVERNMENT OF INDIA ACT

Short Title and Commencement

1. (1) These rules may be called the Non-Official (Definition) Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.*

Certain persons not to be treated as officials for the purposes of the Government of India Act

2. The holder of any office in the civil or military service of the Crown which does not involve both of the following incidents, namely, that the incumbent

(*a*) is a whole-time servant of the Government, and

(*b*) is remunerated either by salary or fees,

shall not be treated as an official for any of the purposes of the Government of India Act.

Decision of the Governor-General in Council to be final

3. If any question arises whether any officer is or is not a whole-time servant of Government for the purposes of Rule 2, the decision of the Governor-General in Council shall be final.

* These rules have been brought into force with effect from 1st October 1920—vide Government of India Notification (Reforms) No. 648-G., dated 30th September 1920.

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